

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK
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-agai nst - : United States Courthouse.
: Brooklyn, New York.
: November 13, 2018
: 9:45 a.m.
JOAQUIN ARCHIVALDO GUZMÁN
LOERA,
Defendant.
- - - - - X
TRANSCRIPT OF CRIMINAL CAUSE FOR TRIAL
BEFORE THE HONORABLE BRIAN M. COGAN
UNITED STATES DISTRICT JUDGE, and a jury
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A P P E A R A N C E S: (Continued)
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Official Court Reporter

Proceedings recorded by computerized stenography. Transcript
produced by Computer-aided Transcription.

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1 (Trial resumed.)

2 (In open court; jury not present.)

3 (Case called; both sides ready.)

4 THE COURT: Good morning. Have a seat.

5 MS. PARLOVECCHIO: Good morning, your Honor. Gina
6 Parlovecchio, Andrea Goldberg, Michael Robotti, Adam Fels,
7 Anthony Nardozzi and Amanda Liskamm for the United States.

8 MR. LICHTMAN: Good morning.

9 MR. BALAREZO: Eduardo Balarezo, Jeffrey Lichtman,
10 Paul Townsend, William Purpura and Ms. Colon Miron on behalf of
11 Mr. Guzman.

12 THE COURT: Good morning. And good morning
13 Mr. Guzman.

14 THE DEFENDANT: Good morning.

15 THE COURT: I'm note we have an interpreter who is
16 sitting next to Mr. Guzman who was previously sworn.

17 MR. BALAREZO: The reason we are not using the
18 headsets is because of the hearing problem.

19 THE COURT: There are administrative details we need
20 to cover before we start. First, there are the juror issues.
21 We have two. We have an issue with Juror No. One, formerly
22 number 91, whom you may all recall displayed some anxiety upon
23 her selection last week. She has delivered to me a
24 handwritten letter, which details medical issues that have
25 been brought about by her selection she says.

1 I'm not going to file the letter because it pertains
2 to personal medical issues, but I'm going to have Ms. Clarke
3 hand a copy to each side to review and after you have reviewed
4 it, please, give it back to Ms. Clarke and we'll talk about
5 what to do about it.

6 (Pause.)

7 THE COURT: Before we address it, both with regard
8 to this and the other issue, let's put aside the question of
9 whether we draft out an alternate or pick a couple of new
10 jurors, let's separate that and address just whether we think
11 this juror ought to be excused. I'll hear from the government
12 first.

13 MS. PARLOVECCHIO: The government believes Juror No.
14 One should be excused, your Honor.

15 MR. BALAREZO: Your Honor, I think we would prefer
16 to hear what the second issue is before we make a decision.
17 It seems like this lady is expressing various issues that we
18 all have suffered from at any point or another.

19 THE COURT: Speak for yourself.

20 MR. BALAREZO: Especially during this trial, your
21 Honor. I would be very loath to excuse her at this point
22 because we have not had one problem. We would like to hear
23 about the second issue first and perhaps we can make an
24 informed decision.

25 THE COURT: Okay.

1 The second issue is Juror No. Two, formerly known as
2 Juror No. 98, who has advised that he is self-employed and he
3 cannot do without income for the expected length of the trial.
4 He conveyed that information not in writing but to Ms. Clarke.
5 She passed it on to me.

6 (Pause.)

7 MR. BALAREZO: Thank you, your Honor.

8 THE COURT: So, now I'll go to the defense first.

9 MR. BALAREZO: Your Honor, with respect to the first
10 juror, we will defer to the court. With respect to the second
11 juror, I think at this point there is no reason to let this
12 person go. They had a full opportunity to disclose these
13 issues to the court and to the parties. We think they are
14 trying to get out of jury service.

15 Now, that having been said, we do believe that
16 several more jurors need to be qualified so we can begin at
17 least with a full complement of alternates given how this is
18 moving already.

19 THE COURT: Let me hear from the government.

20 MS. PARLOVECCHIO: We agree with regard to Juror No.
21 Two. He was given multiple times to raise this during jury
22 selection. We're with the defense on this.

23 THE COURT: Since there's no opposition to excusing
24 Juror No. One, I will also find independently this person has
25 been anxious and upset since selection and it was on full

1 display. I have no doubt if I were to ask further questions
2 of this person it would just result in a breakdown and crying
3 and really it's not necessary. So I'm going to go along with
4 the parties on that. Okay. I'm also going to go along with
5 the parties on number two. I agree with them at this stage he
6 has not demonstrated cause.

7 That means we're one juror short.

8 Mr. Balarezo says we should qualify more. There's
9 nothing magic about the number six. I picked six because
10 that's as many alternates as the jury box would hold. Going
11 with five is not much of a difference.

12 What's the government view on whether we should
13 qualify one more juror?

14 MS. PARLOVECCHIO: Your Honor, I think we should
15 qualify one more juror, just given the length of there trial,
16 the fact that it goes over several holidays. We would be on
17 more sure footing if we started with six alternates rather
18 than five.

19 THE COURT: The parties agree with that?

20 MR. BALAREZO: Yes, your Honor.

21 THE COURT: Then let's talk about the procedure for
22 picking this next alternate.

23 Are we going to have the first person who cannot be
24 challenged for cause or do you want a peremptory?

25 MR. BALAREZO: Your Honor, the potential jurors, are

1 they from the groups that had filled out questionnaires?

2 THE COURT: They are the questionnaire group.

3 MR. BALAREZO: I would suggest that perhaps we
4 qualify three and maybe each side exercises a peremptory.

5 MS. PARLOVECCHIO: We would agree with that, your
6 Honor.

7 THE COURT: That's what we'll do. We'll have to
8 reset the courtroom or move to another courtroom. I'm not
9 sure how we'll do that. We'll stand in recess until we can
10 set that up. Then we'll qualify three jurors, each party to
11 get one peremptory against the three.

12 MS. PARLOVECCHIO: Thank you, your Honor.

13 MR. BALAREZO: Thank you, your Honor.

14 (Recess.)

15 (In open court; jury not present.)

16 THE COURT: Everyone be sure to talk microphones so
17 that you are heard. I guess we'll bring in the first group of
18 ten. Let's bring in ten. That has to be enough.

19 MR. LICHTMAN: Are you going to give them the
20 opening?

21 THE COURT: I'm going to give the same spiel I did
22 before. Bring in the ten and then another ten.

23 MS. PARLOVECCHIO: We went back and looked at the
24 transcript from day one of jury selection. Juror 98 or Juror
25 No. 2 was never questioned about his hardship. So in

1 discussing it with counsel beforehand, we would suggest either
2 bringing him in to further inquire about that issue or
3 proceeding without him.

4 THE COURT: Unless you're going to insist on further
5 inquiring, I just as soon pick two. We'll qualify five, pick
6 two, give you one peremptory. I know what he's going to say.
7 He's going to say I'm a taxi driver and I have no income for
8 four months. Now that is on the questionnaire. He's supposed
9 to say that. I don't know what his questionnaire said. I
10 assume that wasn't a problem on his questionnaire or we would
11 have asked him about it.

12 MR. LICHTMAN: Yes, of course. I think the issue is
13 -- our concern is that if we have a juror who either through
14 negligence or purposefully doesn't want to be here --

15 THE COURT: I see the concern. If you are both
16 agreed that we should excuse him, I will. I don't see a need
17 to take the further time to interrogate him because I know
18 what he's going to say.

19 MR. BALAREZO: He's a cab driver?

20 THE COURT: Yes.

21 MR. LICHTMAN: That's understandable.

22 THE COURT: We're agreed to excuse him.

23 MS. GOLDBARG: Yes, your Honor.

24 MR. LICHTMAN: Yes, your Honor.

25 THE COURT: Number two is excused.

1 Let's have the panel, please. We're starting with
2 Juror No. 48.

3 (Prospective jurors enter courtroom.)

4 THE COURT: Please have a seat.

5 Good morning, everybody. I'm Judge Cogan. Thank
6 you all for being here today and thank you for taking the time
7 to fill out those very detailed questionnaires that I know you
8 all did. I know that was not a very easy thing to do.

9 As you know from the questionnaire you are being
10 considered to sit as jurors in a criminal case. In this case
11 the defendant, Mr. Guzman, is charged with being a leader of
12 the Sinaloa cartel, which the government alleges is a criminal
13 enterprise. The indictment alleges that Mr. Guzman committed
14 several crimes through that criminal enterprise, including
15 drugs and murder conspiracies.

16 Now, Mr. Guzman has denied those charges. He's pled
17 not guilty and he is, therefore, entitled to a presumption of
18 innocence throughout these proceedings.

19 Before we get started, I want to give you a brief
20 overview of your role as a juror, if you are eventually
21 selected to be one in this case. If you've ever served on a
22 jury before, this will probably be a little different
23 experience than that. You might have noticed that we have
24 been referring to you by your assigned numbers and we have
25 asked that you not tell us your names. We had the jury

1 service downstairs remove your names from the questionnaires
2 before we read them. So, I don't know any of your names. The
3 lawyers don't know any of your names. The defendant does not
4 know any of your names. No one is ever going to know what
5 your names are.

6 There's a reason for this. Earlier this year I
7 decided that the jury in this case would be what we call an
8 anonymous and partially sequestered. That simply means that
9 no one is going to know who you are. Although everyone will
10 be able to see you sitting in the jury box during the trial,
11 no one is going to know your names or anything about those
12 names.

13 Now, I did this out of respect for your privacy.
14 This is a high-profile case. It's gotten a lot of public
15 attention, including the media. I didn't want anyone trying
16 to talk to you about the trial or stopping you on the subway
17 or outside the courthouse to ask you questions or even try to
18 talk to you downstairs in the cafeteria during lunch to learn
19 anything about the case. Keeping jurors anonymous is not
20 uncommon in high-profile cases like this because other people
21 will understandably be interested and will want to talk to you
22 about the case if they know that you are involved. But you're
23 going to have enough on your plates if you are picked for this
24 jury in deciding the issues before you. I don't want you to
25 have to worry about any people contacting you in this case.

1 Now, I'll also mention that another part of my order
2 is that the jurors will be brought to and from the courthouse
3 by the U.S. Marshals every day and that the jurors stay away
4 from the rest of the public while they are in the courthouse
5 during trial. They are probably not going to pick you up at
6 home or actually they might. They'll have central meeting
7 places where they can pick several of you up at a time, where
8 you will be picked up and dropped off every day. That's done
9 as part of the overall increase in security measures that the
10 U.S. Marshals have imposed for this case and can ensure that
11 the trial will proceed quickly and expeditiously. I know
12 you'll all be here at the same time because you are all being
13 pick up by the marshals.

14 The point is if you are selected as a juror for this
15 case, your job is going to be very important and I did not
16 want anything to distract you from doing that job.

17 Now, let me tell you what we are going to do this
18 morning. We're going to do the selection process in a few
19 steps. First, I'm going to now ask you a handful of important
20 questions while you are sitting here in the gallery. After
21 I'm done with those questions, I'm going to talk to each one
22 of you individually over there at the end of the table with
23 the attorneys and the defendant present.

24 The five people that you see sitting over there in
25 the jury box, those are reporters, journalists. They are

1 watching because in our criminal justice system it's important
2 for the public to know what happens at these proceedings.
3 But, again, they don't know your names and they are never
4 going to be able to learn your names. Your privacy is very
5 important. So while I'm questioning you up there if at any
6 point you want to discuss something that you don't feel
7 comfortable saying in open court, you're able to ask me to
8 speak to just you and the lawyers without the reporters
9 listening. We can turn on a noise in the back of the jury
10 box. It's very annoying to the reporters. It drowns out all
11 the sound so that you can only hear us when we are talking to
12 you at this table.

13 So if you want to discuss something privately when
14 we're up there, let me know and we'll certainly do that.

15 Now, I'm going to ask you a handful of questions.
16 It's important that you answer these questions honestly so
17 that the parties and I can decide whether you would be
18 appropriate for this jury. Remember that you took an oath
19 downstairs before you filled out the questionnaire and that
20 oath still applies to the answers you give me today. It's
21 very important that you answer these questions truthfully.

22 First, as the defendant sits here right now he's
23 considered innocent. He is presumed innocent until and only
24 if the jury unanimously finds that he's guilty beyond a
25 reasonable doubt. So what that means is if you are in jury

1 deliberations and you say, you know, I think he probably did
2 it but maybe he didn't. That's not enough to convict him.
3 You have to find that he did it unanimously beyond a
4 reasonable doubt.

5 Second, as I explained to you earlier, the defendant
6 has been indicted for several crimes. To say he's indicted
7 that just means that he's been formally charged with those
8 crimes. It doesn't mean that he's guilty of anything. You
9 can't think that he's more likely to be guilty just because
10 he's been indicted for those crimes.

11 Now, is there anyone who disagrees with the idea
12 that the defendant is innocent until and unless he is proven
13 guilty? Anyone have any problem with that concept? You view
14 him as innocent as we start this trial all the way through
15 the trial. Everybody okay with that? Just raise your hand if
16 you are not. Okay.

17 And do you understand that just because he's
18 indicted that's not to be given any weight in determining
19 whether he's guilty. He's just been charged. It doesn't
20 affect his presumption of innocence at all. Is everybody okay
21 with that?

22 Okay. Good.

23 Third, as I mentioned to you, the government has the
24 burden of proving the defendant's guilt beyond a reasonable
25 doubt. Like I said, probably did it is not good enough. I

1 think he did it, that's not good enough. Beyond a reasonable
2 doubt is what's required.

3 Anyone have a problem with that principle of law?

4 Okay.

5 Next, it's very important that throughout the trial
6 you keep an open mind until you go in the back at the end of
7 the case and deliberate with your fellow jurors. You can't
8 hear one witness and think, oh, I know how this case comes
9 out. You can't do that. You have to listen to all the
10 evidence, keeping an open mind throughout. Anyone think they
11 will have any problem keeping an open mind?

12 Okay.

13 Now, when you filled out the questionnaire, you were
14 asked not to do any research, read or watch any news or
15 otherwise learn anything about this case. It's gotten a lot
16 of newspaper and TV coverage and internet coverage.

17 Notwithstanding that instruction, is there anybody who since
18 they filled out the questionnaire has been exposed to this
19 case or things in it or news coverage of it? Just raise your
20 hand if that includes you. Okay. I'm going to say not number
21 64 or number 70. Everybody else. That's fine, we'll talk to
22 you about that.

23 Also, you were asked in the questionnaire whether
24 you know any of the lawyers or the defendant or me. Now that
25 we are all displayed in front of you, do any of us look

1 fami li ar to you? No. Okay.

2 Now, we're going to proceed to the individual
3 questions. We're going to take you to another room, except
4 for one person who we'll bring up to the front and we'll do
5 you one at a time. If you are not selected for the jury,
6 please, don't take that has any slight against you. Lawyers
7 have all kinds of reasons for not wanting someone to be on a
8 jury. It doesn't mean there's anything wrong with you if you
9 are not picked for the jury. I get called for jury duty
10 myself. Judges are not exempt. No lawyer has ever put me on
11 a jury and I'm not offended at all by that.

12 We'll call you in numericals order, so the lowest
13 numbered juror, I think probably 48, we will start with number
14 48. The rest of you can be taken into another room by
15 Ms. Clarke.

16 Juror No. 48, if you would come forward here.

17 (Continued on next page.)

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1 (Continuing.)

2 (Prospective Juror 48 enters.)

3 THE COURT: First thing is you raised your hand that
4 you had seen some coverage or media about the case. Tell me
5 what you saw and what you learned.

6 THE PROSPECTIVE JUROR: Essentially, after the fact,
7 I generally have the local news turned on by default when I
8 get ready in the morning. And, essentially, they were talking
9 about the case. They mentioned some details.

10 In addition, I do have some roommates who kind of
11 pieced two and two together when I was leaving and such, and
12 they were also talking about the case while I was home. So, I
13 heard just various bits and details.

14 THE COURT: Tell me any details you recall hearing.

15 THE PROSPECTIVE JUROR: Mostly, they kind of
16 mentioned stuff about how he was, like, on the news about
17 being one of the most dangerous people, like number 48 or
18 something like that; they mentioned about he was convicted in
19 Mexico; that he escaped; of course, obviously, one of the
20 terms for him coming over here is to make sure he doesn't
21 escape again; possibly that he was involved in a couple of
22 murders.

23 And, essentially, just like that.

24 THE COURT: Okay. Now, you know it's very important
25 if you serve as a juror on this case -- I expect everybody,

1 and almost everybody raised their hand, has heard things about
2 it. But when you serve as a juror, you have to be able to put
3 all that aside because there's going to be a tremendous amount
4 of information in this trial, in this courtroom, and base your
5 verdict solely on what you hear in the courtroom and put aside
6 anything you've heard outside of the courtroom.

7 Are you able to do that?

8 THE PROSPECTIVE JUROR: When I initially filled out
9 the questionnaire I thought I could, but after hearing those
10 details I'm not exactly sure I can. I could try, but, once
11 again, I'm not sure if I can, reasonably speaking.

12 THE COURT: Like I said, everybody has been exposed
13 to some details.

14 What makes you think you might have difficulty doing
15 that if, for example, and I think this is true, you get a
16 hundred times more information in this courtroom than you ever
17 heard out there?

18 THE PROSPECTIVE JUROR: The fact that he's already
19 been convicted, so a part of me kind of feels, if you'll
20 excuse me words, is a bit pointless even if -- it just feels a
21 little pointless to me because he's already been convicted.
22 He's kind of going away regardless.

23 THE COURT: He hasn't been convicted of anything
24 hear.

25 THE PROSPECTIVE JUROR: Yes, in the States, yes.

1 But to my understanding, he was convicted in Mexico.

2 THE COURT: Is that right?

3 THE PROSPECTIVE JUROR: I heard something along
4 those lines.

5 MR. LICHTMAN: Yes.

6 THE PROSPECTIVE JUROR: Like I understand the point,
7 but at the same time it feels pointless.

8 THE COURT: Okay. So, you're saying you can't tell
9 me that you're confident you could put aside all this
10 information.

11 THE PROSPECTIVE JUROR: Yes, that's essentially what
12 I'm saying.

13 THE COURT: Any questions from the attorneys?

14 MS. PARLOVECCHIO: No, your Honor.

15 MR. LICHTMAN: No, Judge.

16 THE COURT: Thank you very much. They will take you
17 back.

18 (Prospective Juror 48 exits.)

19 THE COURT: Cause, right?

20 MS. PARLOVECCHIO: Yes.

21 (Pause in proceedings; Prospective Juror 58 enters.)

22 THE COURT: Good morning. How are you.

23 THE PROSPECTIVE JUROR: Fine. And yourself?

24 THE COURT: Okay. Just a few follow-up questions.
25 You raised your hand when I asked if you had you

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1 heard anything about the case since you filled out the
2 questionnaire. Tell me, what have you heard?

3 THE PROSPECTIVE JUROR: I tried my best to avoid any
4 kind of news coverage, but just due to the profiling and how
5 significant this case is...

6 THE COURT: You heard some things.

7 THE PROSPECTIVE JUROR: Yes.

8 THE COURT: Tell me what you heard.

9 THE PROSPECTIVE JUROR: I heard that the jury has
10 been selected. I've heard slightly personal information about
11 some of the jurors, such as gender, possible age range, et
12 cetera.

13 THE COURT: Anything else? Anything about the case
14 itself?

15 THE PROSPECTIVE JUROR: Not too much. I tried my
16 hardest to avoid any coverage.

17 THE COURT: I noticed that you said you wouldn't
18 have any problems serving in the case with regard to a job or
19 education or anything like that. I just wanted to make sure
20 that's true.

21 THE PROSPECTIVE JUROR: Correct.

22 THE COURT: And then I wanted to ask you in answer
23 to the question: Do you believe that police or law
24 enforcement officers are more likely to tell the truth than
25 other witness? you testified yes, you said: I feel that

1 police or law enforcement officers will be honest because that
2 will result in true justice.

3 Let me ask you some questions about that. Could you
4 agree with me that there are some police officer that are not
5 honest?

6 THE PROSPECTIVE JUROR: I agree.

7 THE COURT: And if I give you an instruction during
8 this trial that you're not to give any credit to police
9 officers -- any special credit over and above what you'd give
10 an ordinary witness, could you follow that instruction?

11 THE PROSPECTIVE JUROR: Yes I can.

12 THE COURT: You're sure?

13 THE PROSPECTIVE JUROR: One hundred percent.

14 THE COURT: Then there was one page on your
15 questionnaire that I think you just missed it, which is not
16 hard since it's a very lengthy questionnaire.

17 But on Page 25, I asked you some of the same
18 questions I've asked you this morning. First, we asked you
19 about the burden of proving the Defendant's guilt beyond a
20 reasonable doubt, that he's presumed innocent and he can't be
21 found guilty unless and until the jury unanimously, based
22 solely on the evidence in the case, decides that his guilt has
23 been proven beyond a reasonable doubt. And it asks you: Will
24 you accept and apply this rule of law?

25 And you didn't answer. Can you apply that rule of

1 Law?

2 THE PROSPECTIVE JUROR: Yes, I can.

3 THE COURT: You're sure?

4 THE PROSPECTIVE JUROR: Yes.

5 THE COURT: Second, a question was asked about the
6 right not to testify. The Defendant doesn't have to testify.
7 He doesn't have to offer any evidence at all. It's entirely
8 the Government's burden to prove that he's guilty beyond a
9 reasonable doubt. In fact, if you get on the jury and you're
10 in the jury room, no one is even allowed to mention the fact
11 that he didn't testify if he chooses not to testify. I don't
12 know what he's going to do. But you can't hold it against him
13 in any way if he doesn't put on any evidence or chooses not to
14 testify.

15 Are you able to follow that direction?

16 THE PROSPECTIVE JUROR: Yes.

17 THE COURT: And then I mentioned to you that the
18 Defendant has been indicted, which means he's been charged
19 with crimes. But the indictment is no evidence at all that
20 he's guilty of anything.

21 Can you follow that instruction?

22 THE PROSPECTIVE JUROR: Yes.

23 THE COURT: Let's see if I have anything else.

24 Now, you mentioned that you don't think cocaine,
25 heroin, and methamphetamine, and marijuana should not be

1 legalized, and then you wrote: This would not affect my
2 ability to serve.

3 I just want to make sure that just because of the
4 nature of these charges, that does not prejudice you in any
5 way against this Defendant.

6 THE PROSPECTIVE JUROR: It does not.

7 THE COURT: Are you sure?

8 THE PROSPECTIVE JUROR: Yes.

9 THE COURT: Okay. And another question that you
10 kind of skipped over is: Do you have any family or friends
11 who have ever been involved with the courts? Lawyers, judges,
12 law clerks, anybody else in the legal field?

13 THE PROSPECTIVE JUROR: I do have an uncle that was
14 a criminal defense attorney in Brooklyn.

15 THE COURT: Did you used to talk to him about his
16 cases?

17 THE PROSPECTIVE JUROR: Yeah.

18 THE COURT: Okay. Without telling us his name, what
19 kind of cases did he defend?

20 THE PROSPECTIVE JUROR: I believe -- honestly, I
21 can't recall.

22 THE COURT: Is there anything about anything you've
23 heard from your uncle that might make it difficult for you to
24 keep an open mind in this case?

25 THE PROSPECTIVE JUROR: No.

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1 THE COURT: All right. Any questions from the
2 parties?

3 MR. NARDOZZI: Nothing from the Government, your
4 Honor. Thank you.

5 MR. LICHTMAN: Thank you.

6 THE COURT: Thank you very much.

7 THE PROSPECTIVE JUROR: Have a good morning.
8 (Prospective Juror 58 exits.)

9 THE COURT: Next is 62.
10 I assume there's no cause challenge to 58.

11 MR. LICHTMAN: No.

12 MS. PARLOVECCHIO: No.

13 MR. NARDOZZI: No, your Honor.
14 (Prospective Juror 62 enters.)

15 THE COURTROOM DEPUTY: Juror 62, you can have a seat
16 there.

17 THE COURT: Hello. How are you?

18 THE PROSPECTIVE JUROR: Good.

19 THE COURT: Let me first ask you, in answer to a
20 question towards the end of the questionnaire, you said that
21 you have a serious difficulty serving on the jury because of
22 your job. Tell us about that without telling us where you
23 work but generally what you do.

24 THE PROSPECTIVE JUROR: I work for a very small
25 nonprofit organization. So, there's just not really people to

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1 cover if I'm not available. And I run a process where -- I
2 don't know how to talk about it without saying what we do. I
3 run a process on behalf of some Government agencies that's on
4 a very strict timeline and, therefore, I have to carry it out.

5 THE COURT: How will the timeline implicate this
6 case?

7 THE PROSPECTIVE JUROR: The most important period is
8 basically after Thanksgiving through January.

9 THE COURT: And there's no one who could replace
10 you?

11 THE PROSPECTIVE JUROR: Not currently. My
12 assumption is that I would be asked to, like, go on leave and
13 they would have to hire someone to run that process.

14 THE COURT: Do you think that's something they'd do?
15 Have you ever heard of that being done at your
16 employer?

17 THE PROSPECTIVE JUROR: We've brought independent
18 contractors in to fill gaps in the past. And I think I only
19 get paid for ten days, so I don't know what other option they
20 would have.

21 THE COURT: Would it be hard for you financially to
22 get paid for only ten days?

23 THE PROSPECTIVE JUROR: Yes.

24 THE COURT: Any questions from the parties?

25 MS. PARLOVECCHIO: No, your Honor.

Jury Selection

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1 MR. LICHTMAN: No, your Honor.

2 THE COURT: Thank you very much. You can go back.

3 (Prospective Juror 62 exits.)

4 THE COURT: Any objection to excusing 62 for cause?

5 MS. PARLOVECCHIO: No objection.

6 MR. LICHTMAN: No, Judge.

7 (Prospective Juror 64 enters.)

8 THE COURTROOM DEPUTY: Juror 64, you can have a seat
9 right there.

10 THE COURT: Good morning. How are you?

11 THE PROSPECTIVE JUROR: Good.

12 THE COURT: Have a seat. Make yourself comfortable.
13 Just a few follow-up questions I wanted to ask you.

14 You said you weren't sure if you would be able to
15 serve because you have a nine-month-old baby. First of all,
16 congratulations.

17 THE PROSPECTIVE JUROR: Thank you.

18 THE COURT: Boy or girl?

19 THE PROSPECTIVE JUROR: Girl.

20 THE COURT: Can you make arrangements to have
21 someone cover the baby while you're here?

22 What we're going to do is we'll stop at 4:30 every
23 day. We're not going to sit on Fridays at all. And we're
24 going to take a pretty long break, a ten-day break, over
25 Christmas and New Year's.

Jury Selection

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1 THE PROSPECTIVE JUROR: My mom usually takes care of
2 her when I go to work and she said she can take care of her.

3 THE COURT: She did? So, that's okay, that won't be
4 a concern of yours?

5 THE PROSPECTIVE JUROR: No.

6 THE COURT: Let me ask you a couple of other
7 questions.

8 Okay. Now, you mentioned that you had watched
9 Narcos on Netflix. Did you watch all the seasons?

10 THE PROSPECTIVE JUROR: Yes.

11 THE COURT: So you saw that one season was supposed
12 to be about this case?

13 THE PROSPECTIVE JUROR: No, that was, like, the end.
14 They were going to do it, but it was, like, the end.

15 THE COURT: So, you didn't see anything about this
16 case that you think that Narcos has anything to do with?

17 THE PROSPECTIVE JUROR: No.

18 THE COURT: If I told you that anything you saw on
19 that show you had to put aside completely and just base your
20 decision in this case on the evidence that's admitted here in
21 open court, are you able to do that?

22 THE PROSPECTIVE JUROR: Yes.

23 THE COURT: You also answered on your questionnaire
24 that you have heard and saw that the Defendant here is the
25 boss of a cartel and that he sells drugs to the U.S. or other

1 countries.

2 Let me ask you the same question: What you've heard
3 about him, are you able to put that aside completely and base
4 your decision solely on what's put into evidence here in this
5 case?

6 THE PROSPECTIVE JUROR: Yes.

7 THE COURT: You understand sometimes things --

8 THE PROSPECTIVE JUROR: Yeah.

9 THE COURT: -- in the media and press, they're not
10 accurate.

11 THE PROSPECTIVE JUROR: Of course.

12 THE COURT: And the Government has to prove this
13 under the rules of law here.

14 THE PROSPECTIVE JUROR: Yeah.

15 THE COURT: You have no problem putting that aside?

16 THE PROSPECTIVE JUROR: No.

17 THE COURT: You also mentioned that you thought
18 marijuana should be legalized for medical purposes but you
19 said that that would not affect your ability to serve as a
20 fair and impartial juror.

21 Are you sure about that?

22 THE PROSPECTIVE JUROR: Yes, I am.

23 THE COURT: So, if you found, for example, that the
24 Government had proven the guilt of this defendant beyond a
25 reasonable doubt with respect to, for example, marijuana

Jury Selection

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1 importation, you wouldn't have any problem voting to convict
2 him?

3 THE PROSPECTIVE JUROR: Yeah.

4 THE COURT: By the same token, if the Government
5 failed to prove that, you wouldn't have any problem acquitting
6 him; is that right?

7 THE PROSPECTIVE JUROR: Uh-huh.

8 THE COURT: You're sure about that?

9 THE PROSPECTIVE JUROR: Yes.

10 THE COURT: Any questions from the parties?

11 MR. NARDOZZI: You noted in your questionnaire that
12 at one time you used to smoke marijuana.

13 Is there anything about that that would cause you to
14 be unfair in this case in assessing facts?

15 THE PROSPECTIVE JUROR: No. I stopped a while ago.
16 That was high school days.

17 MR. NARDOZZI: Okay. And I know the judge
18 questioned you about the show Narcos. There's a new season
19 coming out soon.

20 Can you abstain from watching that?

21 THE PROSPECTIVE JUROR: Definitely.

22 THE COURT: Anything?

23 MR. LICHTMAN: I've got nothing, Judge.

24 THE COURT: Thank you so much. We'll be back to you
25 very shortly. You can go back to that room.

Jury Selection

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1 (Prospective Juror 64 exits.)

2 THE COURT: No cause on 64.

3 Next is 66.

4 (Prospective Juror 66 enters.)

5 THE COURTROOM DEPUTY: Juror 66, you can have a seat
6 right there.

7 THE PROSPECTIVE JUROR: Thank you.

8 THE COURT: Hi. How are you?

9 THE PROSPECTIVE JUROR: Okay. How are you?

10 THE COURT: Okay. Just a couple of follow-up
11 questions I need to ask you.

12 You, like most of the people there, said that
13 despite the instruction in questionnaire not to learn anything
14 more about this case, you think you might have seen or heard
15 something.

16 THE PROSPECTIVE JUROR: Absolutely I did this
17 morning.

18 THE COURT: What did you hear?

19 THE PROSPECTIVE JUROR: That the case started today.
20 They had already made their selection.

21 THE COURT: Obviously, the newspapers were wrong.

22 THE PROSPECTIVE JUROR: I don't read newspapers.

23 THE COURT: So, you heard that on the radio?

24 THE PROSPECTIVE JUROR: Actually, I went to find out
25 what the weather was going to be like, and, boom, first thing.

1 THE COURT: You're right.

2 Anything else you learned about the case, besides
3 that the jury was allegedly selected?

4 THE PROSPECTIVE JUROR: No.

5 THE COURT: You were a little bit equivocal on that
6 "no."

7 Is there anything you can think of?

8 THE PROSPECTIVE JUROR: Nothing at all. Just
9 nervous to be here.

10 THE COURT: I understand.

11 Now, you mentioned that you need to check your blood
12 sugar.

13 THE PROSPECTIVE JUROR: I have letters from the
14 doctor.

15 THE COURT: I believe you.

16 THE PROSPECTIVE JUROR: I'm the caretaker for my son
17 right now. He's in the hospital. I have -- my diabetes is
18 really bad right now because I'm stressed out; number one,
19 this, and, number two, my son back in the hospital.

20 THE COURT: Let me talk to you about your son being
21 in the hospital. I don't want you to tell me what he's got,
22 but how long do you expect him to be in the hospital?

23 THE PROSPECTIVE JUROR: I'll be very honest, he's
24 been in and out continuously.

25 THE COURT: Are you his primary caretaker?

Jury Selection

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1 THE PROSPECTIVE JUROR: I am.

2 THE COURT: How old is he?

3 THE PROSPECTIVE JUROR: (Redacted); mentally, 10.

4 THE COURT: I understand.

5 And would it make it difficult for you to serve on
6 this jury if you had to take care of him?

7 Is there anybody else that can take care of him?

8 THE PROSPECTIVE JUROR: Right now, I'm the only one
9 that does everything.

10 THE COURT: Any questions from the parties?

11 MS. PARLOVECCHIO: No, your Honor.

12 THE COURT: All right. Thank you very much. You
13 can go back in that room, we'll be right with you.

14 THE PROSPECTIVE JUROR: Thank you.

15 (Prospective Juror 66 exits.)

16 THE COURT: No objection to excusing 66 for cause?

17 MS. PARLOVECCHIO: No objection.

18 MR. LICHTMAN: No.

19 THE COURT: This is 67.

20 (Prospective Juror 67 enters.)

21 THE COURTROOM DEPUTY: Juror 67, please have a seat
22 right there.

23 THE COURT: Hello. How are you?

24 THE PROSPECTIVE JUROR: Petrified, thank you. And
25 how are you?

Jury Selection

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1 THE COURT: No, don't be petrified.

2 THE PROSPECTIVE JUROR: Okay.

3 THE COURT: Just a few follow-up questions I wanted
4 to ask you.

5 First of all, I see you have a medical condition
6 that requires frequent appointments; one per month. We don't
7 ever work on Fridays, so you could always make your medical
8 appointments on Fridays.

9 Is that okay?

10 THE PROSPECTIVE JUROR: I already have a couple of
11 appointments that take months in advance to schedule, but that
12 wouldn't be...

13 THE COURT: Can you move those?

14 THE PROSPECTIVE JUROR: I already did. So, I'm
15 still -- no, it's not -- it's November and December, but...

16 THE COURT: Tell me about November and December,
17 what kind of problems you have. Anything?

18 THE PROSPECTIVE JUROR: I am a breast cancer
19 survivor, so I have follow-up appointments with that.

20 But are you talking about conflict as far as work?

21 THE COURT: Work or anything else.

22 THE PROSPECTIVE JUROR: Yeah, I do, because I'm in
23 retail and a manager of internet. And I do have a letter from
24 my employer, which every time I came they said bring it to the
25 judge. November and December is about half the year's revenue

Jury Selection

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1 and it's a small company.

2 THE COURT: You sell things retail?

3 THE PROSPECTIVE JUROR: Online. And I'm the whole
4 back end.

5 THE COURT: What would happen if you couldn't be at
6 work except on Fridays or after 4:30?

7 THE PROSPECTIVE JUROR: I mean, I guess they would
8 survive, but usually I'm there from 7:30 in the morning until
9 5 in the afternoon because it is an internet merchant. So,
10 the orders come in. It's (redacted) and accessories, it's not
11 life-or-death stuff, but it's where I get paid.

12 THE COURT: Okay.

13 MR. BALAREZO: Your Honor, could she speak into the
14 microphone?

15 THE PROSPECTIVE JUROR: I'm sorry.

16 THE COURT: Any questions from the parties?

17 MR. NARDOZZI: No, your Honor.

18 MR. LICHTMAN: No.

19 THE COURT: Thank you very much. We'll be with you
20 shortly.

21 THE PROSPECTIVE JUROR: Do you need that letter?

22 THE COURT: No, I believe you. I trust you
23 completely.

24 (Prospective Juror 67 exits.)

25 THE COURT: I generally find only a few people

Jury Selection

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1 willing to commit perjury to avoid jury duty.

2 MR. LICHTMAN: This would be the case.

3 THE COURT: Yes.

4 So, 67 for cause. Next is 70.

5 (Prospective Juror 70 enters.)

6 THE COURTROOM DEPUTY: Juror 70, you can have a
7 seat.

8 THE COURT: Hello. How are you?

9 THE PROSPECTIVE JUROR: Good, thank you.

10 THE COURT: Be sure you talk into that microphone.

11 I see you have two potential conflicts. You had a
12 November 3 conflict; that's gone, that's no longer a conflict.

13 And you're having some eye surgery, scheduled for
14 (redacted); is that right?

15 THE PROSPECTIVE JUROR: Yeah.

16 THE COURT: Can you move that appointment?

17 THE PROSPECTIVE JUROR: I already did one. It's not
18 balanced, so I have to do it soon.

19 THE COURT: Could you move it a week or two?

20 THE PROSPECTIVE JUROR: Week or two? I don't know.

21 THE COURT: Because we're going to be off. We're
22 not sitting Christmas week or the first part of New Year's
23 week, so we're off that whole ten days.

24 THE PROSPECTIVE JUROR: I already take my blood
25 test. I already had the tests.

Jury Selection

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1 THE COURT: If you can have the surgery on
2 (redacted), why not have it on December 21?

3 THE PROSPECTIVE JUROR: He's not available.

4 THE COURT: He's not available.

5 THE PROSPECTIVE JUROR: The doctor. I supposed to
6 go earlier, but he said he's not available so I make it
7 (redacted).

8 THE COURT: What about later than (redacted)?

9 THE PROSPECTIVE JUROR: Then I don't know. Maybe
10 next year. So, my deductible is -- I have to pay again. So,
11 I have to do it before December.

12 THE COURT: Okay. Any questions from the attorneys?

13 MR. LICHTMAN: No, Judge.

14 MS. PARLOVECCHIO: No.

15 THE COURT: Thank you very much. You can go back.
16 We'll be in touch with you shortly.

17 THE PROSPECTIVE JUROR: Thank you.

18 (Prospective Juror 70 exits.)

19 MR. BALAREZO: I have a torn meniscus in my knee.
20 Can I use that?

21 THE COURT: You're out.

22 70 is excused for cause. 73 is next.

23 (Prospective Juror 73 enters.)

24 THE COURTROOM DEPUTY: Juror 73, you can have a seat
25 right there.

Jury Selecti on

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1 THE COURT: Hello. How are you?

2 THE PROSPECTIVE JUROR: Good, thanks. How are you?

3 THE COURT: Okay. Make yourself comfortable. Just
4 try to talk into that microphone there.

5 THE PROSPECTIVE JUROR: Okay.

6 THE COURT: Just a few follow-up questions.

7 You noted that your employer pays you for jury
8 service, but you checked that you were unsure if you could sit
9 on a trial this long.

10 THE PROSPECTIVE JUROR: Yes.

11 THE COURT: What makes you unsure?

12 THE PROSPECTIVE JUROR: I just never knew that I was
13 allowed to be -- you know, serve on a jury past, you know, a
14 certain amount, and this is a really long case.

15 THE COURT: It will probably be two to four months.

16 THE PROSPECTIVE JUROR: Right. And I still have not
17 inquired about that.

18 THE COURT: Oh. Like I said, you checked that your
19 employer will pay you for jury service.

20 THE PROSPECTIVE JUROR: I believe so, but I'm not
21 exactly sure.

22 THE COURT: Without telling me where you work, can
23 you tell me how big a company it is?

24 THE PROSPECTIVE JUROR: It's a large company. I
25 want to say upwards of 2,000.

Jury Selection

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1 THE COURT: 2,000 people.

2 Without telling me your specific job, can you tell
3 me what field of work you're in?

4 THE PROSPECTIVE JUROR: I am in the art field.

5 THE COURT: Art. Okay.

6 If your employer didn't pay you for jury service,
7 how big a hardship would that be for you?

8 THE PROSPECTIVE JUROR: Not terrible, but...

9 THE COURT: You'd rather not.

10 THE PROSPECTIVE JUROR: Correct.

11 THE COURT: Okay. Just a few more questions I want
12 to ask you.

13 Now, you mentioned that there was a home burglary
14 and a stabbing in your neighborhood.

15 THE PROSPECTIVE JUROR: Yes.

16 THE COURT: It didn't involve you, did it?

17 THE PROSPECTIVE JUROR: No, it did not.

18 THE COURT: Did that give you any impression about
19 the criminal justice system?

20 THE PROSPECTIVE JUROR: No.

21 THE COURT: Did you hear what happened to that case
22 after the incident?

23 THE PROSPECTIVE JUROR: No, I did not, I just heard
24 about the stabbing.

25 THE COURT: Now, you mentioned you had a close

1 family member who decades ago had a problem with cocaine but
2 that he no longer does.

3 THE PROSPECTIVE JUROR: Yes.

4 THE COURT: Let me ask you, can you put that
5 experience aside in determining whether this defendant is
6 guilty or innocent of the charges against him?

7 THE PROSPECTIVE JUROR: I think so. I mean, even
8 though it's drug-related, I just -- you know, it's nothing
9 similar about it other than that.

10 THE COURT: Okay. Also, you said you would hope
11 that somebody employed in law enforcement would be honest and
12 regard truth as being paramount.

13 Would you agree with me that sometimes law
14 enforcement witnesses are not entirely honest?

15 THE PROSPECTIVE JUROR: Correct, I see that.

16 THE COURT: And if I gave you an instruction that
17 you had to evaluate the testimony of a law enforcement officer
18 the exact same way you do with any other witness, giving no
19 more or less credit, could you follow that instruction?

20 THE PROSPECTIVE JUROR: I think so.

21 THE COURT: You think so?

22 THE PROSPECTIVE JUROR: Yes.

23 THE COURT: Are you confident?

24 THE PROSPECTIVE JUROR: I'm not a hundred percent
25 confident.

Jury Selection

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1 THE COURT: Are you 99 percent confident?

2 THE PROSPECTIVE JUROR: I think so.

3 THE COURT: Any questions from the parties?

4 MR. NARDOZZI: Hi, ma'am. How are you?

5 THE PROSPECTIVE JUROR: Hi.

6 MR. NARDOZZI: In one of your questions you were
7 asked, you mentioned that you had read or heard about possible
8 jury tampering and you expressed some concern about that
9 happening to you potentially. As the judge instructed you,
10 this is an anonymous jury.

11 Did that kind of take care of those concerns for
12 you.

13 THE PROSPECTIVE JUROR: Not really. I mean, it's a
14 huge case. And even though we're supposed to be anonymous,
15 there's still information getting out that, you know. For
16 example, that they've already chosen the jury and how many
17 male versus female.

18 THE COURT: That's pretty generic stuff.

19 THE PROSPECTIVE JUROR: It is generic.

20 THE COURT: Did you know that, in fact, the jurors
21 are not going to be picked up at their homes and coming to
22 court by themselves, they're going to be picked up at central
23 meeting places and brought here?

24 THE PROSPECTIVE JUROR: I just found that out.

25 THE COURT: Does that make you feel more comfortable

1 about maintaining anonymity?

2 THE PROSPECTIVE JUROR: Honestly, no.

3 THE COURT: How come?

4 You just think reporters are good at getting
5 information and ultimately can do it if they want?

6 THE PROSPECTIVE JUROR: Yeah.

7 THE COURT: Anything else from the parties?

8 MR. NARDOZZI: Just a follow-up on that point.

9 Would that fear of potential jury tampering impact
10 your ability to be fair in rendering a verdict in this case?

11 THE PROSPECTIVE JUROR: No, I don't think so.

12 MR. NARDOZZI: You believe you could be fair
13 regardless of that?

14 THE PROSPECTIVE JUROR: If I were to be chosen, I
15 mean, I'm hoping that I'm not, but if I do -- if I am, I will
16 do my best.

17 MR. NARDOZZI: Thank you, ma'am.

18 THE COURT: Anything?

19 MR. LICHTMAN: Yes.

20 How are you?

21 THE PROSPECTIVE JUROR: Good, thanks.

22 MR. LICHTMAN: I don't mean to pile on the same
23 area, but you're concerned for your safety.

24 THE PROSPECTIVE JUROR: Yes.

25 MR. LICHTMAN: Do you think that would be

1 distracting during this two- to four-month trial?

2 THE PROSPECTIVE JUROR: I believe so, yes.

3 MR. LICHTMAN: Thank you.

4 THE COURT: What do you mean by "distracted"?

5 THE PROSPECTIVE JUROR: Just based on what I know
6 about drug cartels, you know, I've seen movies, shows, it's
7 something that, you know, I've witnessed not firsthand but,
8 you know --

9 THE COURT: You've heard about it.

10 THE PROSPECTIVE JUROR: Yes, I've heard about it.
11 And it's scary.

12 THE COURT: If I told you that, first of all, I do
13 not expect that there's going to be any problems with this
14 jury, and I also told you that you would have an obligation to
15 put all the things you heard about cartels or drugs or
16 anything else out of your mind and base your decision solely
17 on the evidence in this case, could you follow that
18 instruction?

19 THE PROSPECTIVE JUROR: I believe so.

20 THE COURT: Okay.

21 MR. NARDOZZI: Nothing from the Government.

22 THE COURT: Thank you.

23

24 (Continued on the next page.)

25

1 (Continuing)

2 THE COURT: Anything else?

3 MR. NARDOZZI: Nothing from the Government.

4 THE COURT: Thank you very much.

5 Are you going to challenge?

6 MR. LICHTMAN: I am. She's too close. She's almost
7 teetering on the edge of feeling she can't be fair. She has
8 given some answers that she would be distracted. She doesn't
9 really feel safe even though you have given her some
10 assurances. You got her at the end -- respectfully, that was
11 impressive rehabilitation -- to say that she could still be
12 fair. And, look, I'm not looking to knock off a juror because
13 there's nothing here otherwise that makes me think she's pro
14 or anti-defense. I just am afraid we're going to lose her
15 down the line. She seems very skittish. And we are here
16 qualifying jurors, why not pick another one.

17 THE COURT: I understand your point.

18 MR. NARDOZZI: To be honest, she gave a nuanced
19 answer to a difficult question. It's just not a yes-or-no
20 question. I asked her, and she said she would, the ultimate
21 question is can you be fair and impartial in rendering a
22 verdict. Despite her fears, she said yes. I think she can be
23 a fair juror despite her concerns. And everybody likely has
24 these concerns. She just expressed them to us.

25 THE COURT: I appreciate the candor of the

1 objection. It is largely right, but it is not cause to excuse
2 her. She's a little nervous because there has been so much
3 publicity about the case. But that's not to say she can't be
4 fair or she has a bias one way or the other. I frankly don't
5 know which way that would cut, if it cuts at all. I suspect
6 once we get underway, it won't cut either way and it will be
7 fine. I am going to consider her qualified.

8 Next is 74.

9 That's three so far.

10 THE COURTROOM DEPUTY: 74. You can have a seat
11 right there.

12 (Prospective Juror No. 74 enters the courtroom.)

13 THE COURT: Hello. How are you?

14 THE PROSPECTIVE JUROR: How you doing?

15 THE COURT: Have a seat. Make yourself comfortable.

16 A couple of things I picked up on your
17 questionnaire. First, I think you said after you filled out
18 the questionnaire you had heard some things about the case.

19 THE PROSPECTIVE JUROR: Uh-hum.

20 THE COURT: Tell me what you heard.

21 THE PROSPECTIVE JUROR: News 12, whatever comes up.

22 THE COURT: Do you recall any details?

23 THE PROSPECTIVE JUROR: No, I try not to pay
24 attention to it.

25 THE COURT: Okay. Is there anything you heard that

Prospective Juror No. 74

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1 you couldn't put aside for purposes of sitting on this jury?

2 THE PROSPECTIVE JUROR: No.

3 THE COURT: You mentioned you might have a family
4 vacation that you could move from December 2nd to 7th. If I
5 ask you to move that to Christmas week, could you do that?

6 THE PROSPECTIVE JUROR: No. I checked into it and
7 it is non-changeable, non-refundable.

8 THE COURT: So you are saying there is no way you
9 can be here December 2nd to December 7th?

10 THE PROSPECTIVE JUROR: No.

11 THE COURT: Any questions from the parties?

12 MS. PARLOVECCHIO: No, Your Honor.

13 MR. LICHTMAN: No, Your Honor.

14 THE COURT: Thank you very much. We will get back
15 to you shortly.

16 THE PROSPECTIVE JUROR: Thank you.

17 (Prospective Juror No. 74 exits the courtroom.)

18 THE COURT: That juror is excused for cause. Any
19 objection?

20 MS. PARLOVECCHIO: No objection.

21 MR. LICHTMAN: No objection.

22 THE COURT: Next is 92.

23 THE COURTROOM DEPUTY: Juror 92. Have a seat.

24 (Prospective Juror No. 92 enters the courtroom.)

25 THE COURT: Hello. Have a seat. Just a few

1 follow-up questions I need to ask you. You mentioned that
2 you, after you filled out the questionnaire, you had heard a
3 few things about the case someplace.

4 THE PROSPECTIVE JUROR: That's what I saw in the
5 news and, you know, I just -- just a few. And I'm not
6 watching all the news.

7 THE COURT: Do you recall anything that you heard?

8 THE PROSPECTIVE JUROR: Well, just what the New York
9 1 says, I only watch New York 1.

10 THE COURT: What did it say?

11 THE PROSPECTIVE JUROR: That he's a drug dealer
12 and -- you know, I don't know much about him. A lot of
13 things.

14 THE COURT: Anything else you recall hearing on New
15 York 1?

16 THE PROSPECTIVE JUROR: Just jury been selected and
17 I was surprised to be back here.

18 THE COURT: Obviously not everything in the press is
19 right, right?

20 THE PROSPECTIVE JUROR: Well, I'm not sure.

21 THE COURT: Let me ask you this: Would you be able
22 to put aside everything you heard on the news, just put it out
23 of your mind and base a decision in this case solely on the
24 basis of what you hear in evidence in this courtroom.

25 THE PROSPECTIVE JUROR: I guess I could do that.

1 THE COURT: Are you guessing or are you confident
2 you can do that?

3 THE PROSPECTIVE JUROR: I am so nervous.

4 THE COURT: That's perfectly normal.

5 THE PROSPECTIVE JUROR: Of course I'm nervous about
6 my family. I live close by the courthouse.

7 THE COURT: What makes you nervous about that?

8 THE PROSPECTIVE JUROR: Just the security and, you
9 know.

10 THE COURT: Is there anything about that nervousness
11 that would make it difficult for you to give this defendant a
12 fair trial?

13 THE PROSPECTIVE JUROR: It could be.

14 THE COURT: Could be?

15 THE PROSPECTIVE JUROR: Yeah.

16 THE COURT: How could it be?

17 THE PROSPECTIVE JUROR: Sometimes when I get nervous
18 I talk too much or I don't talk at all.

19 THE COURT: Okay. So you think you might hold it
20 against this defendant that there is all this security near
21 the courthouse?

22 THE PROSPECTIVE JUROR: Well, I'm not sure.

23 THE COURT: Any questions from the parties?

24 MR. LICHTMAN: No, Your Honor.

25 MS. PARLOVECCHIO: No, Your Honor.

1 THE COURT: Thank you very much. We will be in
2 touch with you shortly.

3 THE PROSPECTIVE JUROR: Thank you.

4 (Prospective Juror No. 92 exits the courtroom.)

5 THE COURT: Any objections to excuse 92 for cause?

6 MR. LICHTMAN: No, Judge.

7 MR. NARDOZZI: No.

8 THE COURT: 100 is next.

9 (Prospective Juror No. 100 enters the courtroom.)

10 THE COURTROOM DEPUTY: Juror 100.

11 THE COURT: Hello, how are you? Have a seat.

12 Thanks for coming in this morning. Just a few follow-up
13 questions I needed to ask you. First, you mentioned when you
14 were sitting in the galley that you heard a few things about
15 the case since you filled out your questionnaire. Tell me,
16 what did you hear?

17 THE PROSPECTIVE JUROR: Just I guess jurors, what
18 they were saying.

19 THE COURT: Do you recall anything specific?

20 THE PROSPECTIVE JUROR: The Michael Jackson one,
21 something about a sandwich, someone asking for his autograph,
22 and then just I guess on the news they were saying what he was
23 being tried for.

24 THE COURT: Okay.

25 THE PROSPECTIVE JUROR: Things he has done in the

1 past. Just like a bunch of stuff on the news, articles.

2 THE COURT: Would you have any difficulty putting
3 aside anything you had heard or read about the case and just
4 basing your decision on whether he is guilty or innocent based
5 on the evidence you hear in this room?

6 THE PROSPECTIVE JUROR: I'm going to be honest and
7 say I cannot.

8 THE COURT: How come?

9 THE PROSPECTIVE JUROR: I think -- I mean, I've
10 watched Narcos. I've seen a documentary on him. I watched
11 his show on Netflix. I feel like I know too much. And even
12 though I want to be honest and be truthful because that's how
13 I am as a person. I don't think I can set that a part at this
14 point.

15 THE COURT: Any questions from the parties?

16 MS. PARLOVECCHIO: No, Your Honor.

17 MR. LICHTMAN: No thank you.

18 THE COURT: Thank you very much. Go back to that
19 room. We will be with you shortly.

20 (Prospective Juror No. 100 exits the courtroom.)

21 THE COURT: So our options are to pick one out of
22 three and to give you each a peremptory or bring in another
23 10.

24 MR. LICHTMAN: That would give us five alternates.

25 THE COURT: That is correct. That would give you

1 five instead of six. Do you want another 10?

2 MS. PARLOVECCHIO: We do, Your Honor.

3 MR. LICHTMAN: I'm sorry?

4 MS. PARLOVECCHIO: We'd like another 10.

5 MR. BALAREZO: We would be fine with one.

6 MR. LICHTMAN: I'm just afraid if we go through
7 another 10, we may get another note, then we are going to have
8 another 10.

9 MS. PARLOVECCHIO: We worry about running out of
10 alternates given the length of the trial.

11 THE COURT: The question is does the difference
12 between five and six materially increase that risk. We might
13 have 10 and still run out of alternates, but from five to six.

14 MS. PARLOVECCHIO: In a trial of this length, I
15 think the Government would feel much more secure. We don't
16 want to have to do this whole thing over.

17 THE COURT: Another 10.

18 MR. BALAREZO: Can we have a few minutes to get the
19 questionnaires?

20 THE COURT: The question is should we exercise
21 peremptories on the three we have and pick one.

22 MR. NARDOZZI: And do the same process for the next
23 three qualified.

24 MR. LICHTMAN: How many more do we want to qualify
25 if we take another 10?

1 THE COURT: If you are only going to get one
2 peremptory --

3 MR. LICHTMAN: Well, do you want to do one even
4 though --

5 THE COURT: It's my proposal. I think everybody
6 wants to get this over with.

7 MR. LICHTMAN: Well, if we do two peremptories, then
8 we would have to get to six. Two, two, and two to pick.

9 THE COURT: That's right.

10 MR. LICHTMAN: So we've got three right now. We
11 would have to do another 10 and hopefully catch three out of
12 10. Right now we are batting 300, so it is tight.

13 MR. NARDOZZI: I'd rather do everything at once.

14 THE COURT: Let's try and get another three.

15 MR. LICHTMAN: I would be happy to do the
16 peremptories right now.

17 THE COURT: What's the difference? We are going to
18 be here for another 10. What are the next 10 numbers?

19 MR. LICHTMAN: We just need to get these
20 questionnaires. We don't have these 10. They are in the
21 other room.

22 THE COURT: Get those and we will take a break. Let
23 Melonie know when you're ready.

24 Let me ask one other question before we break. This
25 takes at most an hour. We can still open today, I think.

1 MS. PARLOVECCHIO: Yes.

2 THE COURT: I am not going to send the jurors home.

3 I am not going to tell the marshals to take them back.

4 MS. PARLOVECCHIO: No, we can.

5 THE COURT: Okay. Let's get the other 10.

6 (Pause.)

7 THE COURT: Okay. Have a seat, please.

8 Looking at Rule 24, if we are picking two
9 alternates, each side only gets one peremptory, so we could
10 qualify one more and be in accordance with the rule.

11 MS. PARLOVECCHIO: That's fine.

12 MR. LICHTMAN: If that's the rule, that's the rule.

13 THE COURT: It's the rule; I can do whatever I want.
14 Do you want to persuade me to do something else?

15 MR. LICHTMAN: No.

16 THE COURT: Let's have the next group.

17 (Prospective jurors enter the courtroom.)

18 THE COURT: Please sit down. Make yourself at home.

19 Good afternoon, everybody. I am Judge Cogan. We
20 are very pleased to have you with us today. Thanks for coming
21 and thanks for filling out that very detailed questionnaire,
22 which I know was a lot of work, but it will make it easier to
23 get through this process.

24 As you know from the questionnaire, you are being
25 considered to sit as jurors in a criminal case. In this case,

1 the defendant, Mr. Guzmán, is charged with being a leader of
2 the Sinaloa cartel which the Government alleges is a criminal
3 enterprise. The indictment alleges that Mr. Guzmán committed
4 several crimes through that criminal enterprise, including
5 drugs and murder conspiracies.

6 Now, Mr. Guzmán has pled not guilty to those
7 charges, so he is entitled to a presumption of innocence
8 throughout this case unless and until the jury decides he is
9 guilty beyond a reasonable doubt.

10 Now, before we get started, let me give you an
11 overview of what your role as a juror would be if you are
12 eventually selected for this jury. If you have served on a
13 jury before, and I know some of you have, this case is going
14 to be a little different than that experience. You might have
15 noticed that we have been referring to you by your assigned
16 jury numbers and that we have asked you not to tell us your
17 names. That is going to continue. We had the jury service
18 downstairs remove your names from your questionnaires before
19 we read the questionnaires. So I don't know any of your
20 names. I haven't had access to them. The lawyers don't know.
21 The defendant doesn't know. No one is ever going to know your
22 names. There is a reason for this. Earlier this year, I
23 decided that the jury in this case would be what we call
24 anonymous and partially sequestered. That simply means no one
25 is going to know who the members of the jury have.

1 Although, everyone will be able to see the jurors
2 sitting in the jury box during the trial, they are not going
3 to know their names or anything else to associate them with
4 the case. I did this out of respect for your privacy. This
5 is a high-profile case that has gotten a lot of public
6 attention, including the media, and I don't want anybody
7 trying to talk to you about what goes on during the trial. I
8 don't want anybody stopping you on the subway or outside the
9 courthouse or even trying to talk to you downstairs and asking
10 you questions about yourself or about the case. Keeping
11 jurors anonymous this way is not uncommon in high-profile
12 cases because we know people are going to be interested in
13 talking to you and we don't want you to be burdened with that.
14 We know that in focusing on the evidence in this case you are
15 going to have enough to do and we don't want you to be
16 distracted in any way.

17 Now, another part of my order is that when the jury
18 is impaneled in this case, you are going to be brought to
19 court and home every morning by the U.S. marshals. When I say
20 home, I don't necessarily all the way home. They will arrange
21 for pick-up points and drop-off points for you every day so
22 that they will collect like three or four of you, maybe five
23 of you in one place and the rest of you in some other place.
24 That's, again, just as part of the overall security measures
25 in the case and to ensure that the trial will proceed

Jury Selection

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1 officially and expeditiously. The main point is if you are
2 picked as a juror in this case, I want you to focus on your
3 job and I don't want anybody to be distracted by any outside
4 influences. That's why we are protecting your identity here.

5 Now, let me tell you what's going to happen here
6 today. First, in a few minutes, I am going to ask the group
7 of you collectively just a few questions about principles of
8 law and make sure you are okay with those.

9 After that, I am going to talk to each one of you
10 individually about your questionnaires and some things that I
11 wanted to follow up on the questionnaires.

12 Now, you might have noticed that there are five
13 people sitting in the jury box. Usually this process is open
14 to the public and the courtroom would be filled, but because
15 we are keeping you anonymous, we are not doing that today.
16 The people in the jury box are reporters, but they don't know
17 your names either. They are just here representing the press
18 so that it is a public proceeding and they can communicate the
19 information that they have received. But nothing in here is
20 going to identify you. Your privacy is very important. So
21 when I am talking to each of you up there, if at any time you
22 don't want what you have to say heard by the reporters, just
23 tell me and we have a very annoying noise that will turn on in
24 the back of that jury box that will block them from hearing
25 anything we discuss at this table. So don't hesitate to ask

1 if you think that there's something personal you need to say.

2 I will tell you that while a lot of people have some
3 reluctance in serving on a jury like this, especially when it
4 is going to last as long as this case is going to last, my
5 experience is in these big cases every juror, when it is over,
6 they say that was one of the most interesting things I have
7 ever done in my life and it brings you closer to the democracy
8 that we have, it makes you a participant, and it takes your
9 judgment to decide the case. I think any reluctance you have
10 you will look back on and say, wow, that was really something
11 that I found interesting to do.

12 All right. Now, let me ask you just a few questions
13 collectively. It is important that you answer those questions
14 honestly so that the parties and I can decide who would be
15 appropriate for the jury and who might not. Remember that you
16 took an oath when you filled out the questionnaire to answer
17 all the questions truthfully.

18 First, as he sits here right now, the defendant is
19 considered innocent. He is presumed innocent until and only
20 if the jury unanimously finds that he is guilty beyond a
21 reasonable doubt.

22 Does anybody have any problem with that principle of
23 law? Presumed innocence. Presumption of innocence.
24 Everybody okay with that?

25 Let me see head nods.

Jury Selection

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1 You have a problem with that?

2 THE PROSPECTIVE JUROR: I don't have a problem with
3 the law.

4 THE COURT: We will talk to you about that in just a
5 minute. What is your juror number? I can't see it.

6 THE PROSPECTIVE JUROR: 37.

7 THE COURT: 37. No one is going to associate the
8 number with the name. I don't even know it. Nobody knows it.
9 They are locked downstairs.

10 Okay, second, as I explained to you earlier, the
11 defendant has been indicted for several crimes. The
12 indictment just means he has been charged. It doesn't in any
13 way mean that he's guilty. So you have to go into this case
14 without holding it against him in any way that there is an
15 indictment. Again, an indictment is just a charge. It
16 doesn't mean he is more likely to be guilty than not guilty.
17 You have to put it aside entirely and judge the case just on
18 the evidence that is introduced at trial.

19 Does anybody have a problem with that legal
20 principle?

21 Okay, a third, as I mentioned to you, the Government
22 has the obligation to prove the defendant's guilt beyond a
23 reasonable doubt. It is not sufficient if you are in the jury
24 room and you say I think he probably did it. That's not good
25 enough. You have to find that he's guilty beyond a reasonable

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1 doubt. That's a basic principle of our legal system. Anybody
2 have any problem with that?

3 Okay.

4 Next, it is very important that if you sit as a
5 juror in this case, you keep an open mind. That is, you can't
6 hear one witness or opening statements and make up your mind
7 as to whether the defendant is guilty or innocent. You have
8 to hear all of the evidence and make up your mind only after
9 you deliberated with your fellow jurors.

10 Does anybody have a problem following that
11 procedure?

12 Okay.

13 Next, when you filled out the questionnaire, you
14 were asked not to do any research or watch any news or
15 otherwise learn anything about this case. Now, I know there
16 has been a lot of coverage. All I want to ask you is since
17 you have filled out the questionnaire, have you been exposed
18 to any news coverage, any information about the case?

19 How many people? Raise your hand.

20 Okay. We will talk to you more about that.

21 Finally, you were asked in the questionnaire whether
22 any of you knew the lawyers or the defendant or me. Now that
23 you are looking at all of us displayed before you, any of us
24 look familiar to anybody? Ever saw us before?

25 Okay. Now, we are going to proceed to the

1 individual questioning. Please keep in mind that if you are
2 not selected for a jury -- some of you maybe reluctant, there
3 are also going to be some of you who kind of find it
4 interesting and would like to be selected -- don't hold it
5 against anybody if you are not selected. Lawyers have all
6 kinds of reasons for not wanting somebody on a jury. I will
7 tell you, I get called to jury duty myself, I've been called a
8 number of times, nobody has ever picked me for a jury and I
9 don't take it personally. It's just the way it has worked
10 out.

11 We are going to call you in numerical order. So
12 what's the low number we have?

13 THE COURTROOM DEPUTY: 21.

14 THE COURT: Juror 21, if you will come forward. The
15 rest of you can go back there with Ms. Clarke, and we will
16 take you one at a time.

17 Have a seat right there, ma'am. Make yourself
18 comfortable. How are you?

19 THE PROSPECTIVE JUROR: Good.

20 THE COURT: Just a few questions I wanted to follow
21 up on with you. You mentioned that you heard some things
22 about the case since you filled out your questionnaire.

23 THE PROSPECTIVE JUROR: I hear it every day.

24 THE COURT: Tell me what you have heard if you
25 recall.

1 THE PROSPECTIVE JUROR: In the papers and on the
2 news, they mentioned he came from Mexico.

3 THE COURT: If you can talk right into the mic,
4 please.

5 THE PROSPECTIVE JUROR: That he's from Mexico, that
6 he escaped a few times, and then he was brought to the United
7 States and talking about the different charges. And among
8 other things that got me, people have been threatened. I
9 didn't really like that.

10 THE COURT: Okay. Anything else that you can
11 recall?

12 THE PROSPECTIVE JUROR: What he's charged with,
13 among other things.

14 THE COURT: Okay. All right. You know, there is
15 going to be an all of lot of evidence put into this trial.
16 And if I ask you as a juror to put aside everything you have
17 heard about this case except what you hear in the trial, do
18 you think you are able to do that?

19 THE PROSPECTIVE JUROR: I could.

20 THE COURT: You could?

21 THE PROSPECTIVE JUROR: Yeah, do I want to do it? I
22 don't know.

23 THE COURT: You have some reluctance?

24 THE PROSPECTIVE JUROR: Yes.

25 THE COURT: What is your reluctance based on?

Prospective Juror No. 21

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1 THE PROSPECTIVE JUROR: Maybe I'm scared.

2 THE COURT: You are a little bit scared?

3 THE PROSPECTIVE JUROR: Uh-hum.

4 THE COURT: If I tell you you have no need to be
5 scared and that the marshals are going to pick you up and drop
6 you off every day, does that make you feel better?

7 THE PROSPECTIVE JUROR: To be honest, no.

8 THE COURT: Do you think being scared would make it
9 difficult for you to render a fair and impartial verdict as to
10 this defendant?

11 THE PROSPECTIVE JUROR: To be honest, I think it
12 would.

13 THE COURT: Tell me why it would.

14 THE PROSPECTIVE JUROR: If -- I'm scared or
15 whatever, I probably would want to do a verdict of not guilty.
16 I'm sorry. I'm sorry.

17 THE COURT: All right. Any more questions?

18 THE PROSPECTIVE JUROR: That's my opinion.

19 MR. LICHTMAN: Not from us.

20 MS. PARLOVECCHIO: No, Your Honor.

21 THE PROSPECTIVE JUROR: I'm sorry. That's my opinion.

22 THE COURT: I appreciate you being honest. Thanks
23 very much. You can go back there now. We will be with you
24 very shortly.

25 (Prospective Juror No. 21 exits the courtroom.)

1 THE COURT: The government's has no objection for
2 cause, right?

3 MS. PARLOVECCHIO: We would move to strike for
4 cause.

5 THE COURT: Any opposition?

6 MR. LICHTMAN: No, your Honor.

7 THE COURT: Okay. 27 is next.

8 (Prospective juror enters courtroom.)

9 THE COURT: Hello, sir. How are you?

10 THE PROSPECTIVE JUROR: Fine.

11 THE COURT: A couple of questions I wanted to follow
12 up with you on. I think you said you had not seen anything on
13 this case since you filled out our questionnaire, is that
14 right?

15 THE PROSPECTIVE JUROR: No.

16 THE COURT: Yes, that is right, you have not seen
17 anything?

18 THE PROSPECTIVE JUROR: I don't even know what's
19 going on to tell you honestly the truth.

20 THE INTERPRETER: Can you ask the juror to speak up.

21 THE COURT: Talk into the microphone so everybody
22 can hear you. He said he hadn't heard anything about the
23 case.

24 There were a few questions on your questionnaire
25 that you didn't complete. You said that serving on this jury

1 for as long as it's going to go would not interfere with any
2 obligations that you have. That you answered. But you didn't
3 check whether -- are you working, sir?

4 THE PROSPECTIVE JUROR: No, I'm not working.

5 THE COURT: You didn't check whether you have any
6 personal commitment or travel plans or anything like that. Is
7 there anything that you have planned?

8 THE PROSPECTIVE JUROR: I don't understand some of
9 the words, honestly.

10 THE COURT: Okay. The question was: Do you have
11 any personal commitment or nonrefundable travel plans that
12 cannot be rescheduled?

13 THE PROSPECTIVE JUROR: Honestly, I just wrote
14 anything on the paper. I can't read too well. I just, you
15 know.

16 THE COURT: Okay. That's fine.

17 Do you have any special conditions or disability or
18 anything we need to take care of if you were to serve as a
19 juror in this case?

20 THE PROSPECTIVE JUROR: No. I have a skin
21 condition, like a skin condition I have.

22 THE COURT: Is it under control?

23 THE PROSPECTIVE JUROR: No. I take a pill for that.

24 THE COURT: You do. Okay. Does it affect your
25 ability to concentrate in any way?

1 THE PROSPECTIVE JUROR: Probably so.

2 THE COURT: What kind of side effects do you get
3 from the pill?

4 THE PROSPECTIVE JUROR: Dry mouth and stuff like
5 that. I'm taking it for a week, probably two weeks now.

6 THE COURT: You think it interferes with your
7 ability to concentrate?

8 THE PROSPECTIVE JUROR: Probably so. I'm a little
9 nervous right now to tell you the truth.

10 THE COURT: No one likes to be sitting in a
11 courtroom full of people. That's perfectly understandable.
12 You are no different than anybody else.

13 Your hearing is fine. You don't wear glasses.

14 THE PROSPECTIVE JUROR: I got glasses but I don't
15 wear them.

16 THE COURT: Can you read without them?

17 THE PROSPECTIVE JUROR: No, not really.

18 THE COURT: Do you have a problem with reading?

19 THE PROSPECTIVE JUROR: Yes. I can't read too well.
20 I understand certain things. I'm not perfect, you know.

21 THE COURT: You checked that you don't have any
22 difficulty reading or understanding English. You said, no, I
23 don't have any problem.

24 THE PROSPECTIVE JUROR: Like I said, I just checked
25 anything. I didn't understand the question.

1 THE COURT: Any further questions from the parties?

2 MR. NARDOZZI: No, your Honor.

3 MR. LICHTMAN: No, your Honor.

4 THE COURT: Thank you very much. Go back to the
5 room and we'll be with you shortly.

6 (Prospective juror leaves courtroom.)

7 THE COURT: Cause?

8 MS. GOLDBARG: Yes, your Honor.

9 THE COURT: Okay. Number 37 is next.

10 (Prospective juror enters courtroom.)

11 THE COURT: Hello. How are you?

12 THE PROSPECTIVE JUROR: Great.

13 THE COURT: As they say on Big Bang Theory, sarcasm?

14 Let me ask you, you raised your hand when I asked about the
15 presumption of innocence, how come?

16 THE PROSPECTIVE JUROR: Could I speak to you
17 privately?

18 THE COURT: Is it a private matter?

19 THE PROSPECTIVE JUROR: Well, since the press is
20 here, yes.

21 THE COURT: Any objection.

22 MS. PARLOVECCHIO: No objection.

23 MR. LICHTMAN: No objection.

24 (Pause.)

25 THE COURT: I think it's best if you go back into

1 the other room. We'll be in touch with you very shortly. We
2 might call you back in a second. I need to talk to the
3 attorneys first.

4 (Prospective juror leaves courtroom.)

5 THE COURT: Her family's lives have been touched.
6 All of her family members have been touched by drugs. She
7 knows all about him and she thinks that it would color, her
8 words, color her ability to be a fair juror in this case. I
9 don't think we need to hear any more from her.

10 MS. PARLOVECCHIO: Thank you, your Honor.

11 MR. LICHTMAN: Thank you, your Honor.

12 THE COURT: 37 is dismissed. 57 is next.

13 (Prospective juror enters courtroom.)

14 THE COURT: Have a seat. If you would talk right
15 into the microphone.

16 THE PROSPECTIVE JUROR: Sure.

17 THE COURT: When you filled out your questionnaire
18 you said you had some training in November and three days in
19 the middle. Tell me, without telling me what kind of job you
20 do, have you been able to work out those dates?

21 THE PROSPECTIVE JUROR: No. They will be next week
22 starting for training for my work.

23 THE COURT: What happens if you miss that training?

24 THE PROSPECTIVE JUROR: It might impact my job
25 responsibilities.

1 THE COURT: Can't you reschedule the training for
2 say February?

3 THE PROSPECTIVE JUROR: The issue is, without
4 getting into too much detail, we started a new group in my job
5 and they asked that I start this training so that we could
6 build up a group.

7 THE COURT: Any questions from the parties?

8 MR. LICHTMAN: No, your Honor.

9 MS. PARLOVECCHIO: No, your Honor.

10 THE COURT: Thank you very much. You can go back in
11 the room. We'll be in touch with you soon.

12 (Juror leaves courtroom.)

13 THE COURT: Okay. 57 is excused for cause without
14 objection.

15 (Prospective juror enters courtroom.)

16 THE COURT: Hello, how are you?

17 THE PROSPECTIVE JUROR: Fine.

18 THE COURT: If you could talk right into that
19 microphone, I would appreciate it. This is Juror No. 60. The
20 first question I wanted to ask you is you mentioned that
21 you're working full-time and you're also a student and you're
22 concerned about missing classes and affecting your grades.
23 Tell me a little about that.

24 THE PROSPECTIVE JUROR: It's already become a
25 problem. Missing classes, I missed a mid-term already because

1 of having to be here.

2 THE COURT: Because of me?

3 THE PROSPECTIVE JUROR: Not you directly. Having to
4 be here.

5 THE COURT: I take full responsibility.

6 THE PROSPECTIVE JUROR: You don't have to.

7 THE COURT: Is the damage already done?

8 THE PROSPECTIVE JUROR: Yes. I have make up work to
9 do, testing and papers to make up.

10 THE COURT: If we don't sit on Fridays and we take
11 off the week of Christmas and most of the week of New Year,
12 are you going to be okay?

13 THE PROSPECTIVE JUROR: Well, the semester is over
14 by Christmas.

15 THE COURT: Right. We start a new semester.

16 THE PROSPECTIVE JUROR: Yes.

17 THE COURT: What happens then?

18 THE PROSPECTIVE JUROR: It depends on the professor.

19 THE COURT: Well, you tell me how hard it would be
20 for you to sit on this jury if it went say two to four months?

21 THE PROSPECTIVE JUROR: It would be extremely
22 difficult between my job and my obligations that I have a trip
23 planned and stuff like that.

24 THE COURT: When is your trip?

25 THE PROSPECTIVE JUROR: March.

1 THE COURT: You'll be out of here by March.

2 THE PROSPECTIVE JUROR: You never know.

3 THE COURT: You never know for sure. All
4 expectations are you would be.

5 THE PROSPECTIVE JUROR: You would hope so. You
6 never know.

7 THE COURT: I am concerned --

8 THE PROSPECTIVE JUROR: I am being honest.

9 THE COURT: I appreciate that. I'm primarily
10 concerned about you being a student.

11 THE PROSPECTIVE JUROR: Me, too.

12 THE COURT: Okay. Any questions from the parties?

13 MS. GOLDBARG: No, your Honor.

14 MR. LICHTMAN: No, your Honor.

15 THE COURT: Okay. If you would go back in that room
16 we'll be in touch with you shortly.

17 THE PROSPECTIVE JUROR: Sure.

18 (Prospective juror leaves courtroom.)

19 MR. BALAREZO: Judge, we may still be picking a jury
20 in March.

21 THE COURT: I will tell you we play go to one
22 alternate if we don't get anybody out of this ten.

23 Number 63 is next. I'll note that number 60 was
24 excused for cause without objection.

25 (Prospective juror enters courtroom.)

1 THE COURT: How are you doing?

2 THE PROSPECTIVE JUROR: Okay, thank you.

3 THE COURT: Just a couple of questions I wanted to
4 ask you. You mentioned, when I asked the group questions, you
5 heard a few things about this case since you signed the
6 questionnai re?

7 THE PROSPECTIVE JUROR: Right.

8 THE COURT: Tell me what you have heard.

9 THE PROSPECTIVE JUROR: You know, just, I mean,
10 whatever this gentleman is being accused of and just, you
11 know, certain jurors were let go for whatever their reasonings
12 were, things of that nature, really.

13 THE COURT: Any details of the charges that you
14 learned?

15 THE PROSPECTIVE JUROR: Not necessarily. I just
16 heard whatever came up and just continued on.

17 THE COURT: I noticed it's not like you have
18 unalterable plans that would make it difficult for you to
19 serve or is it?

20 THE PROSPECTIVE JUROR: As far as my vacation?

21 THE COURT: Vacation, any other responsibilities.

22 THE PROSPECTIVE JUROR: I have a child. That's my
23 responsi bi l i ty.

24 THE COURT: How old?

25 THE PROSPECTIVE JUROR: She's fi ve.

1 THE COURT: If you were here four days a week, what
2 would you do to have arrangements for your child?

3 THE PROSPECTIVE JUROR: That might be a problem
4 because I drop her off at school. I don't pick her up. My
5 husband picks her up. It's my dropping her off at school
6 would be an issue.

7 THE COURT: Could he do both?

8 THE PROSPECTIVE JUROR: He works for (redacted).
9 I'm going to say no.

10 THE COURT: He reports early?

11 THE PROSPECTIVE JUROR: He hasn't been there that
12 long, so basically he's like a rookie, whatever shift --
13 whatever is available that's where they are putting him.

14 THE COURT: If not for you and your husband --

15 THE PROSPECTIVE JUROR: Sometimes my sister helps me
16 out. She also works and has her own child. I need time to
17 plan if I know that I need someone else to care for my
18 daughter.

19 THE COURT: Well, if we take off Fridays, would you
20 be able to make your plans this Friday?

21 THE PROSPECTIVE JUROR: I have to ask my sister for
22 this Friday.

23 THE COURT: What do you think the odds are that
24 she'll be able to do it?

25 THE PROSPECTIVE JUROR: I don't see why she won't be

1 able to.

2 THE COURT: It's not for Friday. The question is
3 asking your sister about Monday to Thursday.

4 THE PROSPECTIVE JUROR: That won't work. Monday and
5 Tuesday she works from eight to six and Wednesdays and
6 Thursdays I'm actually picking up her child and take him to
7 her job. So we help each other, but it's a complicated
8 schedule.

9 Q You tell me, do you think you can get someone to cover
10 the pickup in the morning, Monday to Thursday?

11 THE PROSPECTIVE JUROR: I can't promise that to be
12 honest with you and it's not because I didn't want to sit on
13 this. It sounds interesting. I don't want my daughter
14 sitting in school or having issues getting to school because
15 of this.

16 THE COURT: Okay. Any questions from the parties?

17 MR. LICHTMAN: No, your Honor.

18 MS. GOLDBARG: No questions.

19 THE COURT: Thanks very much. We'll be with you in
20 a second.

21 (Prospective juror leaves courtroom.)

22 THE COURT: 63 is excused for cause. Next is 87.

23 I will tell you, I am not inclined to do another
24 group of ten. The trend is not favorable.

25 MR. LICHTMAN: You've noticed?

1 THE COURT: Yes.

2 (Prospective juror enters courtroom.)

3 THE COURT: Hello. How are you?

4 THE PROSPECTIVE JUROR: Okay.

5 THE COURT: I have to tell you I caught your eye
6 roll when I said make yourself at home. Like, yeah, I'm
7 really at home, right. It's okay. We appreciate you coming
8 in. We understand everybody is a little bit nervous sitting
9 here.

10 THE PROSPECTIVE JUROR: I just want to tell you
11 before you start I'm not really understanding. My English is
12 very basic.

13 THE COURT: Sounds okay so far.

14 THE PROSPECTIVE JUROR: Sometime I don't understand
15 different words, but basically yes.

16 THE COURT: Without telling me where you work or
17 specifically what your job is, how much English do you have to
18 use in the course of your work?

19 THE PROSPECTIVE JUROR: Like it depends. It depends
20 because we speak another language.

21 THE COURT: What's that first language, Polish or
22 Russian?

23 THE PROSPECTIVE JUROR: Russian. The second one
24 Armenian.

25 THE COURT: Would you say English is the primary

1 language at your workplace or the secondary language?

2 THE PROSPECTIVE JUROR: Usually, in America primary
3 is just the English. I speak Russian with the Russian people.
4 Some terminology I could not understand. I don't want to be
5 sitting and not understanding.

6 THE COURT: We don't want you to do that either.
7 When you watch TV, do you watch English or Russian?

8 THE PROSPECTIVE JUROR: Russian.

9 THE COURT: You don't watch any English TV?

10 THE PROSPECTIVE JUROR: Sometimes the news or
11 something. Usually if it's a movie, I try to -- I mean I want
12 to watch it in the Russian language.

13 THE COURT: Do you watch any regular shows that are
14 in English?

15 THE PROSPECTIVE JUROR: No.

16 THE COURT: No?

17 THE PROSPECTIVE JUROR: No.

18 THE COURT: Okay.

19 Any questions from the parties?

20 MR. LICHTMAN: No, your Honor.

21 MS. GOLDBARG: No, your Honor.

22 THE COURT: Thank you very much. If you go back in,
23 we'll be with you in just a few minutes.

24 (Prospective juror leaves courtroom.)

25 THE COURT: Okay. 87 is excused for cause without

1 objection: Next is 99.

2 (Prospective juror enters courtroom.)

3 THE COURT: Hello. How are you?

4 THE PROSPECTIVE JUROR: I'm all right. Hanging in
5 there.

6 THE COURT: This is a big-time commitment. You had
7 a really funny answer to the question on whether you're
8 available. We asked if you have any obligations that would
9 interfere, you wrote down, you took my phone, so I don't have
10 access to my calendar. You have since. Do you have any
11 problems that you can't get out of?

12 THE PROSPECTIVE JUROR: Well, I did have surgery on
13 my shoulder in the summer, so it's ongoing medical, physical
14 therapy and doctors' appointments.

15 THE COURT: Okay. Can you tell me generically what
16 kind of surgery was it?

17 THE PROSPECTIVE JUROR: I tore my (redacted).

18 THE COURT: You tore your (redacted)?

19 THE PROSPECTIVE JUROR: My (redacted).

20 THE COURT: So the surgery was arthroscopic for
21 repair?

22 THE PROSPECTIVE JUROR: Yes.

23 THE COURT: How many times a week?

24 THE PROSPECTIVE JUROR: Twice a week.

25 THE COURT: Could you do that on one day Friday and

1 any other day after 4:30?

2 THE PROSPECTIVE JUROR: Potentially, buy the
3 doctors, for the actually doctors' appointment, he leaves at
4 three.

5 THE COURT: How about seeing him on Friday morning?

6 THE PROSPECTIVE JUROR: He doesn't work Fridays I
7 think.

8 THE COURT: How about getting a new doctor?

9 THE PROSPECTIVE JUROR: I don't want to get a new
10 doctor.

11 THE COURT: So how often do you see him though? It
12 should be less and less?

13 THE PROSPECTIVE JUROR: Like once every four to six
14 weeks. Actually next week is my appointment.

15 THE COURT: Could you reschedule that appointment?

16 THE PROSPECTIVE JUROR: I mean for 16 weeks from
17 now?

18 THE COURT: No. I'm hoping, I keep thinking he'll
19 have to change his schedule and work Friday. It may not be
20 Friday.

21 THE PROSPECTIVE JUROR: I don't know his schedule
22 because I work Fridays. I know that the times I have gone has
23 been me leaving work early to get to him before he leaves.

24 THE COURT: It's at 3:00 or 3:30?

25 THE PROSPECTIVE JUROR: Sometimes he's not in the

1 office because those are the days he's doing surgery. I'm not
2 100 percent sure.

3 THE COURT: When he's there, do you ever have like a
4 5:00 o'clock appointment?

5 THE PROSPECTIVE JUROR: No.

6 THE COURT: That's too late for him?

7 THE PROSPECTIVE JUROR: Yes.

8 THE COURT: And how long have you been in the
9 therapy so far?

10 THE PROSPECTIVE JUROR: So, maybe started
11 mid-September-ish.

12 THE COURT: How long a course of treatment is it?
13 Should be done in another month or two?

14 THE PROSPECTIVE JUROR: I have no idea.

15 THE COURT: How do you feel? How does the shoulder
16 feel?

17 THE PROSPECTIVE JUROR: It hurts.

18 THE COURT: Not as much as the therapy. Okay. Any
19 questions from the parties?

20 MS. GOLDBARG: No, your Honor.

21 MR. LICHTMAN: No, your Honor.

22 THE COURT: Thank you very much. If you go back in
23 that room, we'll be in touch with you shortly.

24 THE PROSPECTIVE JUROR: Thank you.

25 (Prospective juror leaves courtroom.)

1 THE COURT: This is the last one in this group.
2 This one definitely has attendance problems. The big sticker
3 to look for is the purple. Purple means their schedule
4 doesn't fit. We're going to have to talk about what to do, if
5 this appears to be as it looks, if it looks as it appears to
6 be.

7 MS. PARLOVECCHIO: Your Honor, would it be possible
8 to have number 87 reach out to her doctor's office to see what
9 the schedule is?

10 MR. LICHTMAN: I have had surgery. I don't remember
11 six months of rehab.

12 MS. PARLOVECCHIO: Surgeons have variable schedules.
13 He may have a Friday appointment. She doesn't know because he
14 works on Fridays.

15 MR. LICHTMAN: First she said it was no Fridays and
16 then she said it was because she worked on Fridays.

17 MS. PARLOVECCHIO: Just for purposes of --

18 THE COURT: I'll ask her to make the call. We'll
19 have Ms. Clarke call with her.

20 MR. BALAREZO: Has she been struck?

21 THE COURT: She's been struck. We might
22 rehabilitate her in order to get a sixth juror.

23 (Pause.)

24 THE COURT: 103 is next.

25 (Prospective juror enters courtroom.)

1 THE COURT: Hello. How are you? Just a few
2 questions I wanted to ask you to follow up on your
3 questionnaire. You pick up your daughter from school?

4 THE PROSPECTIVE JUROR: Yes.

5 THE COURT: Is there anybody else that can do that?

6 THE PROSPECTIVE JUROR: I have to make many
7 arrangements for that. That's the only reason I have to work
8 on the weekends.

9 THE COURT: There's no one else who can pick up your
10 daughter?

11 THE PROSPECTIVE JUROR: Nobody. I have to make a
12 big arrangement.

13 THE COURT: How old is your daughter?

14 THE PROSPECTIVE JUROR: She's eleven, but there's no
15 school bus. It's Long Island. There's no sidewalk and she
16 has to walk on the street which is dangerous.

17 THE COURT: Any questions from the parties?

18 MS. PARLOVECCHIO: No, your Honor.

19 MR. LICHTMAN: No, your Honor.

20 THE COURT: Thank you very much. If you go back in
21 the room, we'll be with you shortly.

22 (Prospective juror leaves courtroom.)

23 THE COURT: Here is what we're going to do: We'll
24 find out the doctor's schedule as to that juror 99. If that
25 doesn't work, then we're going to go with five alternates,

1 unless the two sides want to confer and, instead of
2 necessarily exercising your peremptories, agree on a sixth
3 alternate. You'll talk about it. It's entirely up to you.

4 Let's stand in recess until we get that answer.
5 Hopefully, it won't be too long.

6 THE COURT: Let's reconvene at a quarter to two.

7 (Lunch recess taken.)

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1 A F T E R N O O N S E S S I O N

2 1: 45 P. M.

3 THE COURT: I thought we had agreed before lunch we
4 would go with five alternates and not question any more. Both
5 sides were going to agree on two out of the three that were
6 cleared and if you can't, you'd exercise peremptories and we'd
7 pick one and go with five alternates.

8 The parties still want to do more questionnaires?
9 Have you looked at what's coming?

10 MR. LICHTMAN: Looks like a lot of purple.

11 MS. PARLOVECCHIO: Yes.

12 THE COURT: Purple means they say they can't serve.

13 MS. PARLOVECCHIO: Your Honor, I think we just
14 misunderstood. We thought that if we couldn't agree on the
15 peremptory, that we'd go to another group.

16 MR. BALAREZO: We're happy with five on the
17 Defendant's side.

18 MS. PARLOVECCHIO: We feel very uncomfortable with
19 five, your Honor, just based on the length of the trial and --

20 THE COURT: But what are you going to do if we spend
21 three more days making the trial longer and don't get more
22 than five?

23 MS. PARLOVECCHIO: We'll cross that bridge when we
24 come to it, Judge.

25 THE COURT: We may have come to it. We may be at

1 the bridge.

2 MS. PARLOVECCHIO: We're very close to the bridge.
3 I understand.

4 THE COURT: Let me mention this: With regard to
5 Juror 99, whose number I can't remember for some reason, her
6 doctor problem can be worked out; however, when we found it
7 could be worked out, she said to Ms. Clarke, But the judge
8 didn't ask me about my other issues.

9 Want to start with her again?

10 MS. PARLOVECCHIO: Sure.

11 THE COURT: This is off the record.

12 (Discussion off the record.)

13 THE COURT: Let's have 99.

14 (Prospective Juror 99 enters.)

15 THE COURTROOM DEPUTY: Juror 99, you can have a seat
16 right there.

17 THE COURT: Welcome back.

18 THE PROSPECTIVE JUROR: Hi.

19 THE COURT: I understand we were able to work out a
20 possible medical and physical therapy issue, but you've got
21 another issue.

22 THE PROSPECTIVE JUROR: I'm concerned about --
23 because I work in the schools, so, with my students and, also,
24 my home care clients that I have after work, how, you know, 16
25 weeks being away from my students. Some of them are nonverbal

1 with AAC devices.

2 THE COURT: What does your school do when you're
3 ill?

4 THE PROSPECTIVE JUROR: They actually don't usually
5 provide a sub for me. I don't know what they would do in this
6 instance.

7 But even so, with my home care clients --

8 THE COURT: Your home care clients are at night.

9 THE PROSPECTIVE JUROR: They're after work. Some of
10 them are, like, in the early afternoon because the kids
11 usually nap. They're (redacted).

12 THE COURT: Any questions from the attorneys?

13 MS. PARLOVECCHIO: No, your Honor.

14 MR. LICHTMAN: No, Judge.

15 THE COURT: Thank you. We'll be with you again
16 shortly.

17 Anything else you need to tell me?

18 THE PROSPECTIVE JUROR: I just feel like being part
19 of this, my mentality would be governed by fear and it
20 wouldn't be unbiased. It's biased because it's governed by
21 fear.

22 THE COURT: Okay. Thank you.

23 (Prospective Juror 99 exits.)

24 THE COURT: Anyone think there's not cause?

25 MS. PARLOVECCHIO: No.

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1 THE COURT: 111?

2 THE COURTROOM DEPUTY: This is the next group.

3 (Prospective jurors enter.)

4 THE COURT: Okay. Good afternoon, everybody. Thank
5 you for your patience through this long and difficult process.
6 We're just about at the end of it. I also want to thank you
7 for taking the time to fill out those very detailed
8 questionnaires that you did. That saved the lawyers and me a
9 lot of effort in figuring out who might be able to sit for
10 this trial.

11 As you know from the questionnaire, you're being
12 asked to sit as jurors in a criminal case if you're selected
13 for this jury. The Defendant, Mr. Guzman, is charged with
14 being a leader of what's called the Sinaloa Cartel, which the
15 Government alleges is a criminal enterprise. The indictment
16 in this case alleges that Mr. Guzman committed several crimes
17 through that criminal enterprise, including drug and murder
18 conspiracy. Mr. Guzman has pled not guilty, so he's presumed
19 innocent of all of those charges.

20 Before we get started today, I wanted to give you a
21 brief overview of what your role as juror would be if you're
22 selected for this case. If you served on a jury before, this
23 case is going to be a little bit different than your prior
24 jury service.

25 You might have noticed that we've been referring to

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1 you, everybody in the court, by your assigned jury numbers and
2 we've asked you not to tell us your name. We had the jury
3 service downstairs remove the names from your questionnaire so
4 that I don't have access to any of your names nor do the
5 lawyers nor do the defendants. We will never know what your
6 real names are. There's a reason for this.

7 Earlier this year, I decided that the jury in this
8 case would be what we call "anonymous" and "partially
9 sequestered." That simply means that no one is going to know
10 who the members of the jury are. Although you'll be seen
11 sitting in the jury box, no one is going to know your names or
12 anything about you. I did this out of respect for your
13 privacy. This is a high profile case that's gotten a lot of
14 public attention, including in the media, and I didn't want
15 anyone trying to talk to the jurors during the trial or
16 stopping you on the subway or outside the courthouse or even
17 trying to talk to you downstairs.

18 This kind of procedure is not unusual in high
19 profile cases because a lot of people are obviously interested
20 in the case and might approach you and ask you questions about
21 yourself or what you think or how you think the evidence is
22 coming in. And if you sit as a juror on this case, you're
23 going to have enough to do with the evidence in the courtroom.
24 I just didn't want you had bothered or distracted by any of
25 those inquiries.

1 I'll also mention that as part of that same order
2 that I entered for the anonymous jury, the marshals are going
3 to bring you to court every day and bring you home. When I
4 say "home," I don't necessarily mean to your house but what
5 they're doing is they break you into groups at different
6 pickup points near your house and they take you all to court
7 at the same time and they take you back to those pickup points
8 in the evening. The pickup points and dropoff points are
9 entirely confidential. This, again, is just to add a measure
10 of security to protect your privacy.

11 Now, let me tell you what we're going to do in the
12 next few minutes this afternoon. First, I'm going to ask you,
13 as a group, a handful of important questions while you're
14 sitting here. After I get through those questions, I'm going
15 to talk to each one of you individually. You'll be seated in
16 that chair at the front of the table. So, the rest of you
17 will go out the courtroom, but, again, to protect your
18 privacy, I'll just talk to you one at a time at the head of
19 that table.

20 There are five people you see in the jury box. They
21 are reporters, journalists. They're watching because in our
22 criminal justice system, it's important for the public to know
23 what happens at these proceedings. But, again, we're not
24 going to ask you any questions that would require you to
25 disclose your identity, who you are, the particular employer

1 you have, or any details like that.

2 While we're talking one-on-one up there, if at any
3 point you have something to say to me that you don't want the
4 journalists to hear, let me know. I turn on a noise box that
5 goes on behind them and it blocks out their hearing completely
6 and you should feel free to speak to the lawyers and me
7 privately and not worry about that.

8 I will tell you I know that in a big case like this,
9 a lot of people have some initial reluctance to serve on a
10 jury, especially considering that the trial will be fairly
11 long. But I'll also tell you that whenever I've done a big
12 case, after the trial, the jurors come up to me and say, You
13 know, you were right, Judge Cogan. That was really one of the
14 most interesting experiences I've had in my life. And they're
15 very grateful to have had it. That may sound strange to
16 you -- I expect it doesn't to some of you who may want to
17 serve -- but I will tell you it's the near universal response
18 of jurors in the cases that I've had before me.

19 Let me ask you all a handful of questions as a
20 group. All I'll ask you to do, if necessary, is raise your
21 hand and identify yourself. Then we'll talk about it more at
22 the front of the table when I talk to you one-on-one.
23 Remember that you took an oath when you filled out the
24 questionnaire to answer every question truthfully. That oath
25 still controls your answers you're about to give me now, so

1 it's very important that you tell the truth.

2 First, as he sits here right now, the Defendant is
3 considered innocent. He is presumed innocent. He has a
4 presumption of innocence unless and until a jury unanimously
5 find that he's guilty beyond a reasonable doubt. That's what
6 the Government has to prove. He's considered innocent unless
7 and until the Government does prove that.

8 Does anybody have a problem with that principle of
9 law?

10 Okay. Second, as I mentioned to you earlier, the
11 Defendant has been indicted for several crimes. An
12 "indictment," to be indicted, it just means that he's been
13 formally charged with those crimes. It doesn't mean he's
14 guilty of anything. So, you cannot think, you're not allowed
15 to think, that just because he's been indicted, oh, that must
16 mean he's guilty. That is not the case at all. The
17 indictment is just a charge. It doesn't mean anything.

18 Does anybody have a problem with that principle of
19 law?

20 Yes. What's your number?

21 THE PROSPECTIVE JUROR: 111.

22 THE COURT: Hang on for that and I'll talk to you in
23 a minute.

24 Anybody else have a problem with that? Your number?

25 THE PROSPECTIVE JUROR: 114.

1 THE COURT: All right.

2 Next, as I mentioned to you, the Government has the
3 burden of proving the Defendant's guilt beyond a reasonable
4 doubt. That means that if you go into the jury room and go
5 yeah, I think he probably did it, that's not enough. You
6 can't convict him on that basis. You have to convict him only
7 if you think he's guilty beyond a reasonable doubt. Not
8 probably, not seems like, not most likely, but beyond a
9 reasonable doubt.

10 Does anyone have any issue with that principle of
11 law?

12 THE PROSPECTIVE JUROR: I do.

13 THE COURT: I'll just note your number and talk to
14 you about it. 171. Thank you.

15 Anybody else?

16 Next, it's very important that if you sit as a juror
17 in this case you keep an open mind throughout the trial.
18 There's going to be a lot of evidence, so we don't want you
19 making up your mind after you hear opening statements or the
20 first couple of witnesses. You have to listen to all the
21 evidence and keep an open mind until you engage in your
22 deliberations with your fellow jurors.

23 Anybody have a problem keeping an open mind in the
24 trial?

25 Your number again?

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1 114, 111, 193, 147, and 1717.

2 Anyone else?

3 Now, when you filled out the questionnai re, we asked
4 you not to do any research on the case and try to avoid any
5 news coverage of it. I know there's been quite a bit.
6 Despite those efforts, after you filled out your questionnai re
7 I assume most of you ran into something you heard about the
8 case.

9 Is there anyone who didn't hear anything about the
10 case after you filled out your questionnai re?

11 THE PROSPECTIVE JUROR: Did or di dn' t?

12 THE COURT: Did not.

13 So, everyone's heard something about the case after
14 you filled out your questionnai re.

15 And then last, when you filled out your
16 questionnai re, you were asked whether you knew any of the
17 lawyers or the Defendant or me or any of my staff. We're now
18 all gloriously displayed before you.

19 Do any of us look fami liar? Nobody knows anybody?

20 Now we're going to break into asking questions about
21 each of you indi vidually. Please keep in mind that you should
22 not be offended if you're not selected for the jury. The fact
23 of the matter is I get called for jury service lots of times
24 and I never get picked for a jury. The lawyers always boot me
25 off.

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1 You may want to serve. And if you're not picked,
2 it's nothing against you. Lawyers have all kinds of reasons
3 for wanting certain people on a jury and other people not on
4 the jury and it's nothing you should take personally.

5 We'll proceed in numerical order. 111 is first.
6 Everyone else, if you go with Ms. Clarke, we'll bring you in
7 one at a time. Thank you very much.

8 (Prospective Juror 111 remains; all other
9 prospective jurors exit.)

10 THE COURT: You can have a seat right there at the
11 end of the table. Make yourself at home.

12 THE PROSPECTIVE JUROR: Thank you.

13 THE COURT: Hi. How are you?

14 THE PROSPECTIVE JUROR: I've been better.

15 THE COURT: You didn't feel more comfortable when I
16 said make yourself at home? It's just like my living room.

17 THE PROSPECTIVE JUROR: No. I have a lot of anxiety
18 right now.

19 THE COURT: You answered a couple of the questions
20 that I asked affirmatively. I think you answered the question
21 whether you had -- whether you understood that the indictment
22 is just a charge and it's not evidence of guilt.

23 What's the problem there?

24 THE PROSPECTIVE JUROR: I think intellectually I
25 understand it, but from everything I know surrounding the

1 precautions taken, it's hard for me to go with the
2 justification that that is being upheld -- not being upheld,
3 that's not a question of the Court, but I guess maybe it
4 speaks more to the presumed innocence and all the kind of --
5 let's call it situation surrounding what's the case and the
6 accused.

7 THE COURT: Sometimes things are exaggerated in the
8 press and they are not as they appear to be and it would be
9 erroneous to draw conclusions from that. Like you said, you
10 like to approach it intellectually. We want jurors to
11 approach this case intellectually.

12 So, if I told you intellectually you've got to
13 assume that the Defendant is innocent unless you're convinced
14 the Government has proven him guilty beyond a reasonable
15 doubt, could you do that?

16 THE PROSPECTIVE JUROR: I don't think so.

17 THE COURT: You don't think so?

18 THE PROSPECTIVE JUROR: No.

19 THE COURT: Why?

20 THE PROSPECTIVE JUROR: I have a lot of trepidation.
21 And even right now, I feel very emotional related to it. So,
22 I don't think I could disconnect the two.

23 THE COURT: Any questions from the parties?

24 MS. PARLOVECCHIO: No, your Honor.

25 MR. LICHTMAN: No, thanks.

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1 THE COURT: If you just go back in the room, we'll
2 be with you again shortly.

3 THE PROSPECTIVE JUROR: Thank you.

4 (Prospective Juror 111 exits.)

5 THE COURT: Next is 114.

6 (Prospective Juror 114 enters.)

7 THE COURTROOM DEPUTY: Juror 114, you can have a
8 seat right there.

9 THE COURT: How are you?

10 THE PROSPECTIVE JUROR: Okay.

11 THE COURT: You had a couple of concerns when I
12 mentioned at least the proving guilt beyond a reasonable doubt
13 and that the indictment is not really indicative of anything.

14 What are your concerns?

15 THE PROSPECTIVE JUROR: From what I've heard and
16 read, I find it hard to find the Defendant may be not guilty,
17 based on what I've learned, what I know just from what I've
18 seen on TV news and that kind of thing.

19 THE COURT: But if I were to give you an instruction
20 that you've got to do that, the law requires you to do that,
21 it's the fundamental aspect of our system, that jurors must
22 put aside everything they've heard in the outside world and
23 confine themselves to what they hear at trial, are you saying
24 you couldn't do that?

25 THE PROSPECTIVE JUROR: I think it would be hard to

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1 do that.

2 THE COURT: Hard's okay. The question is, could you
3 do it?

4 THE PROSPECTIVE JUROR: I'm not sure.

5 THE COURT: Okay. Any questions from the parties?

6 MR. NARDOZZI: No, your Honor.

7 MR. LICHTMAN: No, your Honor.

8 THE COURT: Thank you very much. You can go back
9 in. We'll be with you shortly.

10 (Prospective juror 114 exits.)

11 THE COURT: 114 excused for cause. 117 is next.

12 (Prospective Juror 117 enters.)

13 THE COURT: How are you?

14 THE PROSPECTIVE JUROR: Good, thank you.

15 THE COURT: If you wouldn't mind talking into that
16 microphone right there so those at the end of the table can
17 hear you. You can pull it towards you.

18 You raised your hand or you didn't raise your hand
19 when I asked if there was anyone who hadn't heard anything
20 about the case since they filled out the questionnaire.

21 You've heard a few things about this case?

22 THE PROSPECTIVE JUROR: Yes.

23 THE COURT: What have you heard?

24 THE PROSPECTIVE JUROR: Didn't hear anything major,
25 just general stuff that they've been talking about on the

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1 news, couple things in the papers.

2 THE COURT: Any details of those claims or news
3 stories that you recall?

4 THE PROSPECTIVE JUROR: No.

5 THE COURT: Have you heard anything at all that
6 would make it difficult for you to be fair and impartial in
7 this case?

8 THE PROSPECTIVE JUROR: No.

9 THE COURT: If I told you you had to set aside
10 everything you heard outside of the courtroom, could you do
11 that?

12 THE PROSPECTIVE JUROR: Yes.

13 THE COURT: There's a couple of things from your
14 questionnaire that I wanted to follow up on.

15 You speak a little Spanish?

16 THE PROSPECTIVE JUROR: Just a little bit.

17 THE COURT: Can you carry on a conversation in
18 Spanish?

19 THE PROSPECTIVE JUROR: Not really, no.

20 THE COURT: A lot of the testimony at this trial is
21 going to be in Spanish, and there will be an interpreter there
22 translating it into English. I have to make sure that if you
23 sit as a juror in this case, you go by what the English
24 interpreter says even if you heard something in Spanish that
25 you think might have been interpreted a little bit

1 differently.

2 Can you do that?

3 THE PROSPECTIVE JUROR: Yes.

4 THE COURT: All right. In answer to the question of
5 whether law enforcement officers are more likely to tell the
6 truth than other witnesses, you say: Law enforcement are
7 supposed to protect and serve, and, so, I feel that they must
8 tell the truth.

9 Would you agree with me sometimes police officers
10 and law enforcement people don't tell the truth?

11 THE PROSPECTIVE JUROR: Yes.

12 THE COURT: If I told you that you have to evaluate
13 the testimony of the law enforcement officer the same way you
14 evaluate anybody else's testimony, not giving it more credit
15 or less credit, could you follow that instruction?

16 THE PROSPECTIVE JUROR: Yes.

17 THE COURT: Questions from the parties?

18 MS. PARLOVECCHIO: Just one question. You.

19 Had indicated on your questionnaire that you were
20 unsure about whether your employer would pay for your time
21 missed while you're on jury service.

22 Were you able to check on that since you filled out
23 the questionnaire?

24 THE PROSPECTIVE JUROR: Yes.

25 MS. PARLOVECCHIO: What did you learn?

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1 THE PROSPECTIVE JUROR: They said they would pay me
2 if I was to serve.

3 THE COURT: So, it's not a problem for you to serve?

4 THE PROSPECTIVE JUROR: No.

5 MR. LICHTMAN: I have no questions, your Honor.

6 THE COURT: Okay. Thank you very much. We'll be
7 with you shortly.

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9 (Continued on the next page.)

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1 (continuing)

2 THE COURT: Any challenges for cause to 117?

3 MS. PARLOVECCHIO: No.

4 MR. LICHTMAN: No.

5 THE COURT: So you were right, we have four cleared.

6 Each side gets one peremptory. Do you want to take five
7 minutes to figure it out?

8 MS. PARLOVECCHIO: Yes. Thank you.

9 THE COURT: Let's try to make it ten minutes.

10 Do the parties still think we can do openings this
11 afternoon?

12 MS. PARLOVECCHIO: Yes.

13 MR. LICHTMAN: I am concerned. You have to swear
14 them, instruct them. My opening is about an hour. Having
15 them at the end of the day.

16 THE COURT: Let's see where we stand in ten minutes.
17 At the least we will swear them in and I will give them the
18 preliminary instructions and then we will send them home
19 depending on where we are.

20 MS. PARLOVECCHIO: Thank you, Your Honor.

21 (Recess taken.)

22 THE COURT: I guess we will do this from here. Have
23 a seat. Okay, I think it's the Government first.

24 MS. PARLOVECCHIO: The Government strikes number 58.

25 THE COURT: 58 is stricken.

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1 And for the defense?

2 MR. LICHTMAN: 73. 73.

3 THE COURT: And that leaves us with?

4 THE COURTROOM DEPUTY: 64 and 117.

5 THE COURT: 64 and 117 rounds out the 18.

6 Do you want to do openings?

7 MS. PARLOVECCHIO: Yes.

8 THE COURT: How long do you anticipate your opening?

9 MS. PARLOVECCHIO: 25 minutes.

10 MR. LICHTMAN: 25 minutes.

11 THE COURT: Mr. Lichtman, it does concern me that
12 you said an hour. Here's why. I'm sure you know --

13 MR. LICHTMAN: I haven't timed it, Judge, to be
14 honest with you.

15 THE COURT: My point is please keep in mind it is an
16 opening statement, not a closing argument.

17 MR. LICHTMAN: I understand, Judge. We are talking
18 about the evidence that's going to come out. There is a lot
19 of 3500 material.

20 THE COURT: If we reconvene realistically at 3:10,
21 it takes me 15 minutes to do my part and then we have to
22 figure half an hour for the Government, until 4 o'clock. It
23 is longer than I want to keep these people.

24 MR. LICHTMAN: I hate to do it at the end of the
25 day. I don't think they will be paying attention.

1 THE COURT: What's your concern?

2 MS. PARLOVECCHIO: I think the likelihood of
3 everyone feeling like it's moving forward will help solidify
4 the jury, Your Honor.

5 MR. LICHTMAN: Especially with all of the
6 difficulties we have had in terms of getting people that
7 actually can be open-minded, I hate to have them at the end of
8 the day asleep and very tired.

9 THE COURT: What do you think about doing the
10 Government's opening and if you wanted to I'd let you start
11 and break at 4:30 and we can pick it up tomorrow morning?

12 MR. LICHTMAN: I'd rather not break up the opening
13 obviously because once you get the momentum, Judge, it is hard
14 to stop. If they have to open, I have to go because I am not
15 going to leave them with the night.

16 THE COURT: I agree with the Government that it's
17 important that we show these people we are doing something
18 other than picking juries. So we are going to start with the
19 Government's opening, whether you go and break it into two s
20 pieces, because we will stop at 4:30 or whether you wait until
21 tomorrow morning, I will leave that to you.

22 MR. LICHTMAN: Are you going to stop me at 4:30
23 pretty much on the button?

24 THE COURT: 4:30, you want that, fine, but no later
25 than 4:35. See you in a few minutes.

1 (Recess taken.)

2 (In open court.)

3 THE COURTROOM DEPUTY: All rise.

4 THE COURT: Have a seat, please. One more issue.

5 Ms. Clarke has been checking with the jury all day and they
6 were all fine and just now, Juror No. 7, who was formerly 391,
7 if you recall, this juror was concerned because they have an
8 ill family member who might expire during the course of the
9 trial and the juror simply said to Ms. Clarke that he wanted
10 to talk to her after today is over.

11 Now, it is not uncommon in a case that goes this
12 long that occasionally a juror or a lawyer or a party has a
13 death in the family and a day has to be taken off for a
14 funeral. I don't know if we have reached that point with this
15 juror. But I propose we go forward, swear him in, hear what
16 he has to say at the end of the day and make whatever
17 arrangements we need to make after we have done that.

18 Anybody opposed to that plan?

19 MR. LICHTMAN: No objection.

20 MS. PARLOVECCHIO: No, Your Honor.

21 THE COURT: All right. Then let's have the jury,
22 please.

23 We will stand for the jury's entrance and exit.

24 (Jury enters the courtroom.)

25 THE COURT: The jury can sit down. We are all

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1 standing for you. Everyone can be seated.

2 All right. Let me have the jury sworn, please.

3 THE COURTROOM DEPUTY: Please stand and raise your
4 right hand.

5 THE COURT: Now you have that sat down, you need to
6 stand up.

7 (Jury sworn.)

8 THE COURTROOM DEPUTY: You may be seated.

9 THE COURT: All right. Ladies and gentleman, just
10 as a reminder, I am still Judge Cogan. Now that you have been
11 sworn in as members of the jury, I am going to tell you
12 briefly about your duty as jurors and give you some
13 preliminary instructions. When the trial is over, I am going
14 to give you more detailed instructions and it is those
15 instructions that will govern your deliberations in this case.

16 Now, at the end of the evidence and my final
17 instructions to you, it is going to be your duty to decide the
18 facts from the evidence in this case and decide whether the
19 Government has proven beyond a reasonable doubt if the
20 defendant committed the crimes charged against him. In doing
21 that, remember you have to follow the law whether you agree
22 with it or not.

23 Now, the evidence in this case is going to consist
24 of many things: The testimony of witnesses, documents and
25 other things that are received into evidence as exhibits, any

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1 facts on which the lawyers agree, and the inferences that you
2 may reasonably draw from all of this evidence that I have just
3 described.

4 Now, there are two kinds of evidence. There is
5 direct evidence. That means that a witness personally saw,
6 heard, or did something, or evidence in a document that
7 something happened. If you are looking at it, you see it, you
8 hear it, that is direct evidence.

9 Circumstantial evidence is evidence that you can
10 reasonably infer from the direct evidence. One isn't better
11 than the other. You consider how much weight to give every
12 piece of evidence whether it is direct or circumstantial. It
13 is going to be entirely up to you to decide how much weight to
14 give any particular piece of evidence in the case. You have
15 to determine which of the witnesses you believe, what portion
16 of their testimony you want to accept, whether reasonably may
17 be inferred from what they saw, heard or did, and what weight
18 you attach to each aspect of the evidence and to the evidence
19 as a whole.

20 Now, you also need to understand what is not
21 evidence. The questions and objections of the attorneys are
22 not evidence, neither is any testimony that I instruct you to
23 disregard. The statements and arguments of the attorneys are
24 not evidence. The only evidence for you to consider is that
25 which I admit into evidence here in court in the presence of

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1 the parties and you the jurors.

2 Now, at times during the trial, I am going to
3 sustain objections to questions that the attorneys ask. When
4 that happens, I won't permit the witness to answer or if the
5 witness is too fast for me and gets the answer out, I will
6 sustain the objection and strike the testimony.

7 If I sustain an objection or if I say the answer is
8 stricken, you are to disregard the question and the answer
9 entirely. It has to be for you like it was never asked and
10 answered. Put it out of your mind.

11 The law requires that you decide the case solely on
12 the evidence placed before you. You have to let commonsense
13 be your guide subject to and aided by the instructions on the
14 law that I will give you at the end of the case.

15 There is unfortunately no single or magical formula
16 by which you evaluate the testimony and exhibits. You are
17 bringing with you to this trial all of your experiences and
18 your background and, most importantly, your commonsense.
19 That's really why we want you here.

20 Use the same reasoning and tests that you do in your
21 everyday dealings with people to decide who's telling the
22 truth and to what degree, who to believe and who not to
23 believe, and how to reason, understand and weigh the documents
24 and exhibits. Watch the witnesses carefully and listen to
25 everything that is said.

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1 Now, I gave you some of the instructions I am about
2 to give you previously when I met with you, but I want to
3 repeat them now because they are very important. If somebody
4 were to violate all these instructions it could set us back to
5 square one, which is a place no one wants to go.

6 First, it is very important that you do not talk to
7 each other about the case or the evidence in the case until
8 all of the evidence has been presented and I have sent you to
9 the jury room and told you to begin your deliberations. That
10 includes members of your family and friends. As I said to you
11 previously, you can tell them that you are sitting as a juror
12 in a federal case in federal court and that's all you can tell
13 them. As I told you, you are going to be anonymous and
14 partially sequestered throughout the trial. So you need to be
15 as diligent as the rest of us are going to be to make sure you
16 remain anonymous.

17 Second, for the same reason, don't let anybody talk
18 to you about the case or about anyone who has anything to do
19 with it. I don't expect this is going to happen, but if
20 anybody walks up to you and starts talking to you about the
21 case, please tell Ms. Clarke about it immediately. You are
22 supposed to remain anonymous, so we absolutely need to know if
23 somebody has figured out that you are a juror in this case and
24 is asking you questions about it. If that does happen, don't
25 talk to anybody about it except Ms. Clarke, not even your

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1 fellow jurors. Again, I don't expect it, but I need to give
2 you this caution to anticipate things sometimes do happen.

3 Third, don't speak with any of the lawyers, the
4 defendant, or the witnesses. Don't even pass the time of day
5 or say hello or goodbye to them. If they walk right by you
6 and appear not to make eye contact, they are just doing what I
7 have asked them to do. It's not that they are rude people.
8 None of them are. Everyone has to make a point of avoiding
9 even the appearance of impropriety so there is no
10 misimpression between anyone about what happened between the
11 jurors and lawyers or the witnesses.

12 Fourth, and this is very critical, there is going to
13 be a lot of press coverage about this case. You have to do
14 your very best to stay away from it. If you are watching TV
15 and you see something come on, please click the remote control
16 and switch to another channel. If you see a headline in the
17 newspaper, stop at the headline, flip the page, don't read the
18 article. If you see something on the internet, if something
19 pops up, zip right back to your home page and be there
20 instead. Even if you hear people talking about the case,
21 whether on the subway or at a family gathering or anything, do
22 your best to tune it out. That's because your verdict has to
23 be based only on the evidence that's here in this courtroom
24 and we don't want you influenced by anything else.

25 For the same reason, it is very important that you

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1 not do any research about the case. Don't Google places or
2 people you hear about during trial to find out more. Don't
3 post anything that mentions this trial on Facebook. Don't
4 send texts or e-mails to anyone saying I think this about the
5 case or the judge is doing a really good job. Nothing at all
6 should you say about the case in your social media.

7 That part is always hard for jurors because we all
8 communicate so much on social media, but it is very important
9 that you follow that direction. It would really violate your
10 oath if you did and we don't want that to happen.

11 Now, let me tell you how this trial is going to
12 proceed. The first thing that is going to happen is that the
13 Government is going to make an opening statement. As I
14 mentioned to you before, an opening is not evidence. It is an
15 outline of what that party intends to prove or show and it is
16 offered to help you follow the evidence that you will see and
17 hear during the trial.

18 (Continued on next page.)

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1 THE COURT: After the government makes its opening
2 statement, the defendant is going to make one as well. After
3 those opening statements the government will present witnesses
4 and the defendant may cross-examine those witnesses. Then if
5 the defendant wants he may present witnesses and the
6 government may cross-examine the defendant's witnesses.

7 Finally, there may be what we call rebuttal
8 witnesses for the government. I want to remind you that the
9 defendant doesn't have to prove his innocence. He's presumed
10 innocent. So he's not required to testify or to present any
11 evidence at all and if he decides to go that way you can't
12 hold it against him in any way.

13 After all the evidence has been submitted the
14 attorneys will make closing arguments to summarize and give
15 you their interpretation of the evidence that you saw and
16 heard during the trial. Like the opening statements, the
17 closing arguments are not evidence. They are, again, just
18 offered as guides to let you know what the issues are and to
19 give you each side's perspective on what has been proven or
20 not proven.

21 Then after those closing arguments I'll give you the
22 instructions on the law and you will retire to deliberate on
23 your verdict. You'll get a copy of those instructions when you
24 go in to deliberate on your verdict. Don't worry. They are
25 long and involved but you will have them in front of you.

1 Please, as I told you when I selected you, do not
2 make up your mind about what the verdict should be until after
3 you have heard all the evidence and I've instructed you on the
4 law at the end of the case and after you have deliberated with
5 your fellow jurors. Please, keep an open mind until then.
6 The parties deserve and the law requires that you give them an
7 opportunity to be fully heard and that you not make up your
8 mind until you and your fellow jurors have heard all the
9 evidence and instructions and you completed your
10 deliberations.

11 Finally, let me repeat for you so you know what the
12 schedule for the trial is going to be. We're going to start
13 hopefully every morning at 9:30 sharp. We will do our best to
14 do that. Then we'll take about 45 minutes for lunch and we'll
15 be bringing in your lunch to you. We'll take a break so you
16 can rest a little bit. During the morning we'll take a ten or
17 fifteen-minute break before lunch. After lunch we'll go no
18 later than 4:30 and we'll probably take a break between
19 lunchtime recess and the end of the day as well, again, just
20 so you can recharge your batteries a little bit. Those are
21 approximate times. You need to bear with me if I can't stick
22 to them precisely.

23 Remember, we don't sit on Fridays. That may change
24 a little depending on the progress that we make. I expect it
25 will not. You should set any appointments you have, any

1 things you have to do, try to set those for Fridays.

2 It's very important that you be here on time.

3 Please, meet the marshals at your meeting points. Some of you
4 don't know them yet, but you'll know them by the end of the
5 day. You don't want to delay your fellow jurors. You don't
6 want to delay the parties to the case. You go right into that
7 jury room when you get here and once you're all there
8 Ms. Clarke will bring you into this courtroom and we'll start
9 the day.

10 You may have already noticed this. When you enter
11 and exit the courtroom everyone rises due to the solemn duty
12 you have undertaken to judge this case honestly and fairly
13 according to the law.

14 The other thing I wanted to mention is taking notes.
15 It is going to be a long trial. I can understand you want to
16 take notes. The other thing I want to caution you about,
17 don't let your note taking get in the way of your hearing the
18 testimony. Whenever I get new law clerks, they start writing
19 down everything I say. I tell them stop writing. Listen.
20 They are trying to figure out how to write something and the
21 next thing I say will go over their heads. Don't fall into
22 that trap. Feel free to take notes. You have a court
23 reporter as you see here. He's preparing what we call a
24 verbatim transcript. If there is a portion thereafter you
25 want to see during your deliberations, we'll have that

1 available for you. You are also going to see me occasionally
2 typing on my computer. I'm following along with the
3 transcript on the computer. Just because you see me typing
4 don't draw the conclusion that I am doing something that shows
5 we've reached a significant part of the case. That's not it
6 at all. If I'm making a note it's probably on a point of law
7 that doesn't concern you. It may be for another case where I
8 see a similar issue. Don't be distracted by my note taking go
9 habits.

10 All right. At this point we're going to begin with
11 the government's opening statement.

12 MR. FELS: Thank you, your Honor.

13 Ladies and gentlemen of the jury, this case is about
14 drugs. This case is about money. This case is about
15 violence. This case is about prisons escapes. This case is
16 about a vast global narco empire, all culminating in the
17 seizure of billions -- and that's with B -- of dollars of
18 illegal narcotics from 1989 until 2014.

19 And the kingpin who ran the organization, who is
20 responsible for these illegal activities, that man, the
21 defendant, Joaquin Guzman Loera, a man from the mountains of
22 Mexico with street smarts. He started low down in the
23 organization, referred to as the Sinaloa Cartel or The
24 Federation. But he sold enough drugs and used instinct and
25 brutality to rise all the way to the top of an organization of

1 hundreds of people. He rose from being a man who followed
2 orders to being one who gave them. And he used all and every
3 means available to him to insure that he stayed at the top,
4 including corruption of public officials, kidnappings, torture
5 and even murder.

6 Now, even as a boss Guzman was not content just to
7 give orders to kill. No. He was a hands-on leader. The
8 evidence in this case will show how he took out a rifle and
9 shot two men at point-blank range. And then he ordered his
10 workers to dig a hole and burn the bodies.

11 Using all the tools of his trade Guzman expanded his
12 criminal organization to nearly a dozen countries. And he
13 used this operation to flood the streets of Brooklyn, New York
14 City and the United States with hundreds and hundreds of tons
15 of cocaine, marijuana, heroin and methamphetamine.

16 Now, to give you a sense of the size and scope of
17 his criminal organization, I want you to consider the
18 following shipments of cocaine: Twelve tons. That's over 26
19 thousand pounds on a fishing boat in the Eastern Pacific ocean
20 in 2004. 19 tons on a boat off the coast of the Panama in
21 2007. Eight tons in warehouses in Ecuador in 2009. And two
22 tons seized right here in Brooklyn on Third Avenue, about two
23 miles away from where we're sitting today.

24 Ladies and gentlemen, this is just a small set of
25 examples of cocaine shipments that Guzman and his partners

1 tried to sell here in the United States.

2 Now, how much cocaine is in these 41 tons? There's
3 enough cocaine in those 41 tons for 328 million lines of
4 cocaine. That is more than a line of cocaine for every single
5 person in the United States.

6 Now, Guzman sent all this cocaine, plus the
7 marijuana, the methamphetamine, the heroin to this country,
8 the United States, for one and only one reason, to make money.
9 Those same 41 tons, Guzman could have sold those 41 tons of
10 cocaine for over 850 million dollars.

11 Now, luckily all four of those shipments were seized
12 by the authorities before Guzman and his partners could sell
13 it here in the United States. Throughout the course of this
14 trial you will hear about those four seizures and you will
15 hear about several more and you will hear testimony that
16 Guzman boasted that for every one seizure he suffered he had
17 100 successful shipments. Think about that, ladies and
18 gentlemen. Guzman was not a narco trafficker for 25 years
19 because he lost money. He made billions.

20 Ladies and gentlemen, my name is Adam Fels and I'm
21 one of the prosecutors representing the United States of
22 America in this case. You've already met Gina Parlovecchio
23 and Anthony Nardoizzi. I would like to introduce you from
24 right to left the other prosecutors on this case, Amanda
25 Liskamm, Michael Robotti and Andrea Goldbarg, together we

1 represent the United States in this matter.

2 Now, who is Chapo Guzman, the defendant in this
3 case? As you're going to hear in a video that Guzman made and
4 sent to the media, he started out at the age of fifteen
5 growing and selling marijuana and poppy flowers, which is
6 you'll hear the source of heroin.

7 THE COURT: Counsel, I'm sorry to interrupt you.
8 You know, we have an overflow courtroom and they can't hear
9 you unless you speak into the microphone.

10 Of course, the microphone has to work.

11 Thank you very much.

12 MR. FELS: Sorry about that, ladies and gentlemen,
13 technical difficulties.

14 From the start in the early 1970s you are going to
15 hear from the government's witnesses that Guzman started by
16 selling marijuana within Mexico, but he moved on to transport
17 other traffickers' marijuana up to the United States/Mexico
18 border and then from there he gained the capacity to bring it
19 across the border into the United States for a fee.

20 Now, back then it took illegal drug shippers weeks
21 to move that marijuana over the border. So Guzman slashed
22 that delivery time to mere days by moving marijuana under the
23 border, using tunnels that he had built. Then in the
24 mid-1980s Guzman pursued a new venture, the shipment of
25 cocaine. You're going to hear that he established

1 relationships with some of the largest Colombian cartels at
2 that time. He convinced them to ship their cocaine from
3 Colombia to him in Mexico and that he could use his tunnels to
4 move the Colombians' cocaine into the United States as quickly
5 as possible.

6 Now, where does this cocaine come from? Cocaine is
7 processed from the coca plant, which is grown in the
8 mountains, the Andes Mountains of South America and it has to
9 get to the United States and other places where there's a
10 significant market. Now, there are a number of ways that it
11 can go from South America to the United States and one of
12 those ways you'll hear is across into Mexico and then over
13 into the United States by land. You can see that Mexico is
14 here in the middle between South America and the United
15 States. So that narco traffickers like Chapo Guzman played a
16 critical role in the supply chain.

17 Now, in the beginning Guzman started relatively
18 small. He began receiving only a few airplanes in select
19 hidden landing strips throughout Mexico. But before long
20 Guzman began receiving anywhere from ten to fifteen planes
21 stuffed with cocaine every night. This earned Guzman a new
22 nickname from the Colombian cartel. He was no longer just El
23 Chapo, the short one, he was now El Rapi do, the speedy one,
24 because of the unprecedented speed with which he moved the
25 Colombians' cocaine into the United States, using these

1 tunnel s and other means.

2 Now, as the 1990s started, you'll hear Guzman
3 continued to receive hundreds of tons of cocaine, carrying on
4 these planes, which he successfully transported to the United
5 States.

6 Now, how does a drug trafficker like Guzman make so
7 much money transporting cocaine? During the course of the
8 trial you'll learn that cocaine costs a certain amount in
9 Colombia. But if it can be successfully shipped to Mexico,
10 the price of that cocaine goes up three to five times and if
11 it can be brought into the United States it's now worth ten
12 times what it originally was worth. Now, what accounts for
13 that increase? You'll hear that various risks such as
14 seizures by governments or acts of God or a ship that gets
15 sunk all cause the price to increase, because the closer you
16 can bring that cocaine to the United States, the eventual
17 market, the more value it's worth.

18 Now, at the start Guzman made a percentage of the
19 cocaine that he transported as a fee for moving it for the
20 Colombians. But later the Colombians sold the bulk of their
21 cocaine to Guzman at the Mexico price and then allowed Guzman
22 to double his profits by crossing it one border into the
23 United States. But Guzman wanted to earn even more. He sent
24 his family members down to South America to negotiate with the
25 sources of supply so that he could buy directly from the

1 source and make all of the profits. You'll hear how Guzman
2 used just about every possible way to move that cocaine,
3 including his tunnels, planes, trains, automobiles, fishing
4 vessels, tractor trailers, even submarines.

5 Now, Guzman's tremendous success caught the eye of
6 his biggest competitors. You'll hear how Guzman's
7 organizations started a bloody war against his rivals in
8 Mexico. There were a number of killings on both sides.
9 Guzman had his people kill his rivals just as his rivals
10 targeted Guzman's people. In 1993 Guzman had to flee to the
11 neighboring country of Guatemala but he was arrested and
12 brought back to Mexico and put in prison. For the next eight
13 years Guzman was in prison in Mexico but not even the four
14 walls of that prison could stop Guzman from running his
15 illegal drug empire. You're going to hear how Guzman kept his
16 illegal drugs empire going by passing messages to his workers
17 while he was still in prison so he could continue his
18 profitable illegal deals.

19 Now, Guzman's continuing criminal conduct did not
20 escape the notice of American law enforcement, ladies and
21 gentlemen. After learning he had been charged in the United
22 States Guzman realized that Mexico could send him to the
23 United States to face charges. So Guzman and his people did
24 the one thing that they could in order to prevent them from
25 losing their boss. They busted him out of the prison. You

1 will hear how in 2001 Guzman escaped in a prison cart, then
2 fled to hide in the mountains of Mexico where he escaped
3 capture for over a decade.

4 Now, after Guzman escaped in 2001 you'll hear how he
5 immediately took back the reins of his criminal organization.
6 He arranged for multiple heavily-armed compounds and
7 heavily-guarded compounds to be built in the mountains in his
8 home state of Sinaloa, Mexico and that he pulled the strings
9 of his organization, along with the other leaders, from there.

10 Before long Guzman became even more organized, more
11 powerful than he had been before his arrest. Now, around the
12 same time you'll hear Guzman forged a strong partnership with
13 a man by the name of Ismael Zambada Garcia, otherwise known as
14 Mayo Zambada. From 2001 until Guzman's final capture in 2016,
15 Guzman and Mayo were the principal leaders of their criminal
16 organization. They consulted each other constantly. They
17 planned drug deals together. They assembled a team of
18 smugglers, pilots, of killers, of corrupt officials and other
19 experts in narco trafficking. They were based in their home
20 state of Sinaloa and thus came to be known as the Sinaloa
21 Cartel.

22 Now, during the mid-2000s the Sinaloa Cartel under
23 Guzman and Mayo's leadership continued shipping hundreds and
24 hundreds of tons of cocaine and other drugs into the United
25 States on a constant basis. There were so many deals, ladies

1 and gentlemen, you're glowing to hear Guzman couldn't keep
2 track of which deal is for which. He would say is this a deal
3 for marijuana or is this a deal for cocaine? Guzman and Mayo
4 arranged for cocaine to be shipped to a number of cities,
5 including Los Angeles, Chicago, New York City. From there it
6 was spread throughout the United States. Once the cocaine was
7 sold, the proceeds, the drug profits, were brought back down
8 to Mexico so that Guzman and Mayo could purchase even more
9 drugs to ship up to the United States and so Guzman and Mayo
10 could share in the profits.

11 Now, what do these profits go for? You'll hear
12 those profits went for a number of different things. Some of
13 that money went to go pay off the Mexican military and police,
14 both so that Guzman could get information on upcoming raids
15 but also so that the Mexican police wouldn't interfere with
16 his drug trafficking. Some of that money went to go arm
17 Guzman with an impressive array of fire power, assault rifles,
18 grenade launchers, explosives. Some of that money went back
19 down to South America to pay for the next shipment of cocaine.
20 And some of that money went to fight war after bloody war that
21 he and the other members of his organization waged over the
22 next few years to rip control of territories and critical
23 gateways into the United States from rival cartels.

24 Now, the next war you will hear was in 2006 and was
25 over control of a city called Ciudad Juarez. Ciudad Juarez,

1 which shares a border with the City of El Paso, Texas, you are
2 going to hear is a critical gateway to the lucrative United
3 States illegal drug market. Prior to the war Guzman and other
4 rival traffickers shared in critical gateway. But Guzman was
5 not content with sharing, ladies and gentlemen. He wanted
6 that city all to himself. So he sent out a number of killers
7 to wipe out his rivals and over the next few years Juarez
8 turned into a war zone, with the bodies piled up on all sides.

9 Now, another bloody front opened up in 2008 as
10 Guzman waged war against his long-time partners and cousins
11 who had split from Guzman's organization and turned against
12 him. Witnesses will describe to you how Guzman gave a
13 standing order for hundreds of armed gunmen loyal to him and
14 to Mayo to fan out in the streets of Culiacan and target and
15 murder those loyal to Guzman's rivals, his own cousins. In
16 retaliation his cousins did the same and before too long
17 Culiacan, and like Ciudad Juarez before it, turned into a war
18 zone. As that war raged on traffickers were caught in the
19 middle, who moved drugs for both sides, were forced on pain of
20 death to pick a side.

21 Guzman did not just sit on the sidelines and give
22 orders. During this trial you will see a video of both Guzman
23 and his killers interrogating enemies of the rival cartels.
24 You'll even hear how Guzman himself pulled the trigger and
25 ordered his workers to dispose of the bodies.

1 Now, in order to maintain control over his vast drug
2 empire Guzman had to be able to communicate his orders, his
3 desires, to the members of his organization who would follow
4 them out. Now, one issue that Guzman had to address early on
5 is he had to find a secret and secure way to pass these
6 messages along to his workers without fear of them being
7 intercepted by law enforcement or his rivals. Guzman began to
8 use ever more sophisticated methods of communicating with his
9 workers. Starting off with the use of pay phones, then
10 switching to cell phones and then switching to encrypted
11 cell phones and finally encrypted apps on his phone that he
12 could send texts on.

13 You'll hear how he would use workers to pass
14 messages back and forth so that he would know what was going
15 on without a chance of him being on the calls and being
16 recorded. You'll hear that Guzman didn't just use these
17 communications systems to communicate with his own workers.
18 He also used them to spy on his competitors so he could find
19 out what they were doing. Now, despite all of his efforts to
20 keep his communications secure, what Guzman did not count on,
21 ladies and gentlemen, is that for a short period of time the
22 government was listening. The government was recording.
23 During this trial, thanks to these recordings, you will have
24 the opportunity to hear Guzman running his global narco empire
25 in his own words. You'll have a chance to read his text

1 messages, ladies and gentlemen. These recordings and text
2 messages provide evidence of the drug deals, the kidnappings,
3 the corruption, the murders. In some of Guzman's text
4 messages you are going to hear about his narrow escape from
5 capture in a city called Cabo San Lucas in Mexico in 2011. In
6 his rush to flee, however, Guzman left behind a treasure
7 trove of evidence, implicating him in his drug business.

8 Ladies and gentlemen, you'll see that evidence. In
9 early 2014 the authorities tracked Guzman to Culiacan, but
10 upon arrival, Guzman and some others escaped through a hidden
11 passageway underneath a bathtub outfitted with hydraulic lifts
12 and the scurried away through the city's sewer system to
13 safety. He was apprehended shortly afterwards, but he didn't
14 stay in prison for long. In July of 2015 you will hear that
15 Guzman and members of his criminal organization orchestrated a
16 dramatic escape from prison, his second. In a sophisticated
17 feat of engineering Guzman's workers dug a nearly mile long
18 tunnel -- from an house that they had bought specifically for
19 this purpose -- to Guzman's prison cell, a tunnel so long, so
20 wide, that Guzman needed a motorcycle to escape to freedom.

21 But that freedom was short-lived. The authorities
22 caught up to Guzman again in 2016 and he was sent to the
23 United States before he could flee again. But you will hear
24 that just before that happened Guzman was planning yet another
25 escape from Mexican custody.

1 Now, how do we prove all of these things to you?
2 Through many different sources of evidence, ladies and
3 gentlemen. We'll present to you the audio and video
4 recordings that I just mentioned, the text messages, documents
5 proving the crimes, photographs of members of the criminal
6 organization and of the seizure of tons upon tons of drugs.
7 Law enforcement witnesses who participated in those seizures
8 who will testify before you. And in addition throughout the
9 trial you're going to hear from a number of individuals who
10 will pierce the inner circle of Guzman's criminal
11 organization.

12 Now these individuals who are sometimes -- will be
13 sometimes referred to during the trial as cooperating
14 witnesses, these are individuals who themselves were involved
15 in criminal activity with Guzman. They are going to testify
16 to you about their own criminal conduct, the criminal conduct
17 of Guzman and the criminal conduct of others who worked with
18 both them and Guzman.

19 Now, these testifying witnesses, these cooperating
20 witnesses, are frequently testifying for some sort of benefit
21 from the government, whether that means the opportunity to
22 stay in the United States or perhaps a reduction of their
23 sentence. Now, you should of course take these witnesses'
24 cooperation into account. But, please, pay close attention to
25 these witnesses' testimony about their criminal interactions

1 with Guzman and I submit to you this testimony will provide
2 critical evidence against Guzman because these witnesses
3 provide the inside story of how this vast narcotics empire
4 worked.

5 In addition, the evidence will show that the
6 information from these insiders will be supported by the other
7 evidence in this case, such as the recordings, the
8 communications, the documents that you will both hear and see.
9 And over the course of this trial the evidence will show that
10 Guzman had absolutely no trouble at all selling all of the
11 cocaine that he could bring to the United States. In that
12 video that he made and sent to media that I discussed a few
13 minutes ago you will see and hear Guzman state in his own
14 words how his drugs catches people's attention and one way or
15 another people try it to see how it feels or how it tastes and
16 then the addiction starts to grow.

17 Ladies and gentlemen, we are here today because for
18 25 years Guzman sent massive quantities of illegal drugs to
19 the United States and because he led a vast narcotics
20 trafficking empire.

21 Now, over the next few minutes I would like to talk
22 to you a little bit about the charges that Guzman is facing in
23 this case. Because of his illegal conduct the government has
24 charged Guzman with various crimes ranging from 1989 to 2014,
25 including operating a continuing criminal enterprise,

1 international narcotics importation and distribution
2 conspiracies, multiple cocaine importation charges, money
3 laundering and using a firearm in furtherance of drug
4 trafficking activity.

5 Now, the first of these crimes is his participation
6 in what's called a continuing criminal enterprise. Now, as
7 Judge Cogan will instruct you at the end of case in detail, to
8 show that there was a continuing criminal enterprise, the
9 government must prove several things. First, the government
10 must prove a series of different violations of the United
11 States narcotics laws involving five or more participants.
12 Now, over the 25 years of the criminal activity charged in the
13 indictment you will hear throughout the trial hundreds of
14 people participated, not just five. Some people in the
15 beginning, some people near the end, some people in the
16 middle. The one constant, even during his period of
17 incarceration, was the defendant, Joaquin Guzman Loera.

18 Next, we'll prove that Guzman was a principal
19 administrator, organizer or leader of a continuation criminal
20 enterprise. We will prove to you, ladies and gentlemen, that
21 he was a leader, not only through the testimony of these
22 insiders, some of his former employees, who received orders
23 from Guzman, but we'll also prove Guzman's leadership position
24 through intercepted calls he made, through a letter that
25 Guzman himself wrote. In one of these calls you'll hear one

1 of Guzman's workers refer do him as boss, Jefe. And he was a
2 hands on involved boss of his criminal organizations, ladies
3 and gentlemen. Please, pay special attention to the level of
4 detail that Guzman goes into his written letter to one of his
5 top lieutenants. That letter will be in evidence. Another
6 example of how hands on he was, you'll hear a call in which
7 Guzman is personally involved in negotiations with a Colombian
8 trafficker regarding up front payments that he is being asked
9 to make for a shipment of cocaine, how he gives his nephew
10 specific step by step instructions about how to go forward
11 with that cocaine deal.

12 The government will also prove that Guzman received
13 substantial income and resources from this criminal
14 enterprise, at least \$10 million in any one twelve month
15 period.

16 Ladies and gentlemen, we'll have witnesses testify
17 about the cocaine shipments that they personally participated
18 in with Guzman. They'll go through the figures with you to
19 show you how Guzman could sometimes receive \$10 million from a
20 single shipment of cocaine. You will see drug ledgers. These
21 are documents used by drug traffickers to keep track of who
22 owns what portion of a cocaine shipment and these will prove
23 some of these drug losses for you.

24 Finally, the government will prove that the
25 violations involved at least 150 kilograms of cocaine. You

1 will see evidence of seizures by the government of illegal
2 drugs that were being shipped or received by Guzman or members
3 of Guzman's criminal organization. Some of these shipments
4 would land in warehouses. Others were on fishing vessels, out
5 on the high seas. We will present to you law enforcement
6 officers who were personally involved in these seizures.
7 They'll describe to you how they discovered the drugs, how
8 they recovered them on fishing vessels, on trains, even on
9 submarines. Among the other charges is that Guzman used or
10 carried one or more firearms during or in relation to a
11 charged drug trafficking crime.

12 You will learn how Guzman had his own private army,
13 consisting of hundreds of men armed with assault rifles. They
14 were responsible for his protection and movement in and around
15 the mountains of Sinaloa. You will see how Guzman himself
16 carried various weapons on his person, how some of his
17 personal favorite were a diamond encrusted handgun with his
18 initials and a gold plated AK 47. You will hear from numerous
19 witnesses who frequently saw Guzman armed when they met with
20 him to discuss drug shipments.

21 (Continued on next page.)

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1 (Continuing.)

2 MR. FELS: The Government will also prove that at
3 least on one occasion, one of these firearms was fired. The
4 evidence will show that in addition to the private army that
5 he maintained, Guzman also financed and controlled groups of
6 "sicarios," hitmen, or "pistoleros," gunmen, whom he used to
7 target and kill members of rival traffickers and in multiple
8 narco wars that he and other members of his criminal
9 organization waged. Witnesses will recount for you how Guzman
10 ordered his hitmen to locate, kidnap, torture, interrogate,
11 and shoot members of his rival organizations. Guzman didn't
12 only order the sicarios to shoot people in the course of his
13 drug dealings. Guzman himself sometimes did the shooting.

14 His violence did not only affect members of rival
15 organizations, ladies and gentlemen. You'll hear how after
16 Guzman ordered the murder of a rival trafficker who hadn't
17 shown Guzman the proper amount of respect, both the rival
18 trafficker, he and his wife, were gunned down in front of a
19 movie theater.

20 Witnesses will also testify how Guzman gave orders
21 to neutralize threats from within his own organization by
22 ordering the murders of those suspected of cooperating with
23 law enforcement. You will hear how not even Guzman's own
24 family members were immune. A number of witnesses will
25 testify for you how Guzman ordered the murder of one of his

1 cousins, one of his closest lieutenants, simply because he was
2 suspected of cooperating with the authorities.

3 Next charge is a conspiracy to launder drug money.
4 We'll show you how Guzman took the money from his illegal drug
5 sales, how he got it back down to Mexico so he would both reap
6 the profit as well as buy more drugs to send up to the United
7 States.

8 Money. Drugs. Murder. A vast global narcotics
9 trafficking organization. That is what this case is about.
10 And that is what the evidence in this case will prove. And at
11 the end of the trial, after all the evidence has come in and
12 both sides have had an opportunity to summarize, you will be
13 asked to go back into the jury room and deliberate. When you
14 consider all of the evidence in this case, the seizures, the
15 ledgers, the testimony of the cooperating witnesses, and the
16 Defendant's own recordings, video, texts, and letters, we are
17 confident that you will come to one and only one conclusion:
18 That the Defendant is guilty of all the crimes charged.

19 Thank you.

20 THE COURT: Let me see counsel at sidebar for just a
21 second.

22 Ladies and gentlemen, cover your ears. There's
23 going to be an annoying noise in the background in just a
24 minute.

25 (Continued on the next page.)

Si debar

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1 (The following occurred at sidebar.)

2 THE COURT: What's the defense want to the do?

3 I'll give them an instruction to keep an open mind,
4 of course, that just because they've heard one side doesn't --

5 MR. LICHTMAN: Judge, I'm ready to go. Let me
6 start. We'll take a break if we have to.

7 THE COURT: Plan on breaking. What the Government
8 thought 25 minutes was closer to 35 minutes. Planning on
9 breaking at 20 to 5, but it's a hard break.

10 MR. LICHTMAN: What I'll do is if I see a segue that
11 makes sense...

12 THE COURT: But no later --

13 MR. LICHTMAN: Understood. Thank you, Judge.

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15 (Continued on the next page.)

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1 (Sidebar ends; in open court.)

2 THE COURT: All right. Defense may proceed.

3 MR. LICHTMAN: Thank you, your Honor.

4 If a stranger from another planet who knew nothing
5 about the criminal justice system in America sat through the
6 Government's opening statement, they would think that
7 everything that the prosecutor said was fact, everything was
8 truthful, and we would just go right to sentencing for
9 Mr. Guzman. His guilt wouldn't be in doubt, he seemed very
10 certain about what he was saying, and that would be the end of
11 it.

12 This is not the case, however. The prosecutor's
13 opening statement is not evidence. And there is another side
14 to this story, an uglier side to this story that you have not
15 heard yet, the side that the governments of Mexico and the
16 United States do not want you or anyone else to hear about.

17 This is a case that will require you to throw out
18 much of what you were taught to believe in about the way
19 Government's work and how they behave, governments in South
20 and Central America and Mexico and even the United States.
21 This is a case which will require you to open your minds to
22 the possibility that government officials at the very highest
23 level can be bribed, can conspire to commit horrible crimes;
24 that American law enforcement agents can also be crooked; that
25 governments can allow drug kingpins to operate openly for

1 decades solely for the bribes and the economic advantages that
2 drug dealing does for their impoverished countries but mostly
3 for the money.

4 These are horrible things for me to have to say and
5 I'm not happy about it. I know this is shocking to hear. But
6 everything I am telling you will be part of the evidence in
7 this case. Everything I just told you and will tell you comes
8 directly from the mouths of the witnesses lined up by the
9 Government, not me. Their witnesses.

10 And these witnesses are like nothing you could ever
11 possibly imagine. Imagine, if you will, a group of witnesses
12 who have lied every single day of their lives since they could
13 walk, who have committed a crime every single day of their
14 lives, who have stolen from anyone and everyone they come in
15 contact with, who will tell you that they have lied to their
16 Government, to our Government, who will tell you other
17 cooperators in this case can't be trusted to tell the truth.
18 They're killers, they're thieves, they're drug dealers,
19 witnesses who have paid off foreign prosecutors and judges and
20 police and federal law enforcement and even the DEA of
21 America. And not just for drug trafficking business. They've
22 bribed and paid off and obstructed justice for personal
23 matters as well. Witnesses who have killed prosecutors, who
24 have tried to kill presidents of other countries.

25 That's what gives life to the Government's case

1 here. Those witnesses.

2 And, yes, there are many drug seizures you're going
3 to see and hear about, taped calls, videos, pictures. We'll
4 get to all of that in a bit, but what is the main component of
5 evidence in this case against Joaquin Guzman?

6 The so-called cooperating witnesses from Mexico,
7 Colombia, Honduras. People who will make your skin crawl when
8 they testify here.

9 You're going to be asking yourselves soon why? Why
10 is the Government going so far in this case, using these
11 gutter human beings as their prized evidence? Giving them
12 benefits like getting them visas to stay in this country
13 amongst us. Short jail sentences so that they'll be out soon
14 amongst us. Some of them already are out.

15 Why are they willing to affect our country with
16 these degenerates, these violent, drug-dealing, dead-end
17 criminals?

18 It's not because of their claim that they need to
19 stop Joaquin Guzman from dealing drugs which reach America.
20 It's because a conviction of Chapo Guzman is the biggest prize
21 that this prosecution could ever dream of. And they have
22 dreamed of it for decades. He has become a mythical, elusive
23 figure to not only the world at large but to American
24 prosecutors and law enforcement officers as well.

25 They claim that he is the biggest drug dealer in the

1 world, the biggest that the world has ever seen. It's false.
2 It's not true. The Government witnesses will admit that there
3 are many leaders of the so-called Sinaloa Cartel, many
4 different factions, some of them at war with each other.
5 Chapo Guzman, numerous government witnesses will claim that
6 they are close to him but they will tell you that he has no
7 money, a far cry from the billions of dollars they claim that
8 he's made.

9 How can it be their own witnesses think that he is
10 not who the prosecutors claim he is?

11 The DEA agent who listened in on wiretaps for a year
12 said the same thing in an e-mail that he sent to colleagues,
13 quote: Chapo was more myth than an actual legend and didn't
14 move any drugs to Chicago, despite these claims that he
15 supplied eighty percent. Spent almost a year listening to him
16 and his group and we were unimpressed.

17 That's them. Not me. That's from the mouth of a
18 lead law enforcement agent in this case who's been chasing
19 Mr. Guzman for years.

20 So, why and how did Mr. Guzman become public enemy
21 number one, a man who has had television shows made about him,
22 books, rap groups singing about him, his image on hats,
23 T-shirts, lunchboxes?

24 Well, in order to explain it all to you I need to go
25 back 25 years, when Mr. Guzman's life changed dramatically

1 when a Mexican Catholic cardinal was killed in a high profile
2 May 24, 1993, shooting at the airport in the Guadalajara,
3 Mexico.

4 According to the Mexican government's initial
5 account, Mr. Guzman was the intended target of this shooting
6 by the Arellano Felix drug trafficking organization and the
7 cardinal was supposedly shot in a cross-fire of bullets by
8 mistake, that the Arellano Felix shooters mistook the cardinal
9 for Mr. Guzman, despite the fact that the cardinal was decades
10 older than Mr. Guzman at the time, looked nothing like him,
11 was dressed in clerical robes, and was shot 14 times at close
12 range.

13 In fact, the cardinal was assassinated. And very
14 possibly by the Mexican Government in an effort to shut the
15 cardinal up. The cardinal had been warned to stop accusing
16 government officials of corruption with drug organizations,
17 but, as you'll learn throughout this trial, the Mexican
18 Government has been and up until today completely and utterly
19 corrupt. And they needed a scapegoat for the murder of the
20 cardinal, and little-known Joaquin Guzman at the time, who was
21 raised dirt poor in a tiny town in the state of Sinaloa in
22 Mexico --

23 MS. PARLOVECCHIO: Objection.

24 THE COURT: I need you, as discussed, to focus more
25 on what the evidence is going to show and not argument.

Opening Statement - Lichtman

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1 MR. LICHTMAN: Judge, this is going to be coming,
2 perhaps, from a witness in the case.

3 THE COURT: I'm just giving you guidance.

4 MR. LICHTMAN: Thank you, Judge.

5 I'm talking about Joaquin Guzman, who was a
6 little-known nothing at the time with a second grade
7 education, who grew up in a very poor town named La Tuna, the
8 town of the Mexican State of Sinaloa, with dirt roads, had no
9 cars. He was required as a child to walk from house to house
10 selling oranges, cheese, and bread that his mother baked in
11 order to feed his family. And as everyone else in his town
12 did, they farmed marijuana and poppy flowers, the resin of
13 which is used to make heroin and opium.

14 Mr. Guzman grew up with other kids who became
15 couriers for notorious narco traffickers. You'll hear about
16 the Beltran Leyva family. They grew up alongside with
17 Mr. Guzman. Once friends, they became enemies over the years.

18 Keep in mind that this is not disputed, and you need
19 to understand, that there are areas in Mexico that are so
20 poor, with no jobs, no chance to survive, that people are
21 involved in the drug trade from a young age in order to eat.
22 It's nothing that anyone is ashamed of in these towns because
23 it's their only chance at survival. And they're proud of what
24 they do. It is understood and accepted and even the Mexican
25 government doesn't interfere because they're happily bribed to

1 stay away.

2 So Joaquin Guzman, the scapegoat, was manhunted down
3 after the cardinal was killed and put into prison, even as the
4 government was claiming that he was the intended recipient for
5 those 14 bullets. He was not the shooter, but they said he
6 was the intended recipient, and he was hunted down as the
7 killer. Makes no sense.

8 Joe Lebond, the DEA agent who was based in Mexico at
9 the time, will testify in this case. He notes in his report
10 that Mr. Guzman was in prison for the --

11 MS. PARLOVECCHIO: Objection.

12 THE COURT: Sustained. Move on to something else,
13 please.

14 MR. LICHTMAN: Why did the Mexican government need a
15 scapegoat?

16 Because they were making too much money being bribed
17 by the leaders of the Sinaloa cartel. I'm going to get into
18 that in a minute. As you'll hear from the evidence in the
19 case, the Arellano Felix drug organization, which was
20 responsible, supposedly, for the murder of the cardinal, had,
21 in 1993, the time of the cardinal's murder, quote,
22 presidential connections, as Rey Zambada, the Government's
23 first cooperating witness, will testify to.

24 So, who did the Government of Mexico and the
25 Arellano Felix drug organization decide together to frame for

1 this murder? Joaquin Guzman.

2 He had been a low-level nobody, as I said, who
3 suddenly found his face on billboards, on TV, being hunted
4 down, so you can imagine when he found himself in a jail cell
5 in Mexico accused of the shocking murder of a popular Catholic
6 cardinal by the Mexican government, who actually did the
7 killing themselves, and, in fact, seven of them were actually
8 arrested for assisting in the shooting of the cardinal, when
9 Mr. Guzman found himself in the Mexican prison under these
10 circumstances, he knew he would be killed if he stuck around.
11 Jails in Mexico are not like jails here. Prisoners walk
12 around with guns, grenades, pretty much anything they want
13 because of the broken jailers.

14 The prison escapes help the myth of El Chapo, but,
15 again, it all started with the murder of the Mexican cardinal
16 in the airport in 1993, which led to his first escape. And
17 that began the beginning of the mythological status as
18 El Chapo, the biggest drug dealer in the history of the world
19 according to the press and the governments of America and
20 Mexico.

21 And you're going to hear about how the myth of
22 El Chapo grew over the years; in part, because Mr. Guzman
23 himself enjoyed the publicity and the status that it afforded
24 him. He fostered it and he helped create that myth too. The
25 prison escapes, as I said, helped fuel that myth. And they

1 all served turning him into a larger figure than life. And
2 we're going to get around to what Mr. Guzman had to do in
3 order to stay alive while he was in jail beyond escaping.

4 But he desperately did not trust the Mexican
5 government to not kill him when he was inside there, having
6 reached out to the DEA while he was in prison there and did
7 all that he could to keep the Mexican government and the
8 Mexican prison officials unaware of his dealings with the
9 American law enforcement agency.

10 But as I said earlier, this team of prosecutors from
11 all over the United States will tell you that Joaquin Guzman
12 is the biggest drug dealer in the history of the world. But
13 as you're going to learn in this case, through the
14 Government's witnesses, he's not even alleged to be the
15 biggest drug dealer in Mexico.

16 But who is?

17 A man who has not had TV shows made about him, does
18 not have his face on lunchboxes, he's not meeting with Sean
19 Penn, he's not being sung about by musicians, he's not
20 escaping from prison because he's never even been in one, a
21 man who is 70 years old and has operated as a drug trafficker
22 for 55 years in Mexico without ever being arrested, despite
23 being first charged in an American federal court 40 years ago,
24 a man you've never heard of before today: A man named Ismael
25 Zambada, or Mayo for short, Mayo Zambada.

1 How did he get away being the biggest narco
2 trafficker on the planet whose name you never even heard of?

3 I'm going to tell you why: He pays for it. He
4 bribes the entire government of Mexico, including up to the
5 very top: The current president of Mexico. And for good
6 measure, the previous one as well.

7 I'm going to say that again with some emphasis: The
8 current and former presidents of Mexico received hundreds of
9 millions of dollars in bribes from Mayo, according to the
10 Government's witnesses.

11 You didn't hear that in the Government's opening.
12 You're hearing it now.

13 Can you imagine -- and you don't have to because
14 there are witnesses that are going to say it here -- other
15 foreign governments, the Mexican army, prosecutors, judges,
16 local police, you name it, Mayo bribed them today. And his
17 own brother and two sons are cooperating with the United
18 States Government today.

19 In this case, Mayo was under multiple indictments in
20 America, his sons and brother are cooperating with this
21 Government, and, yet, not only has he never been arrested, but
22 he is continuing his multi-billion dollar leadership of the
23 Sinaloa Cartel. And has been for years.

24 The U.S. Government pretends to want him. They've
25 issued a reward for \$5 million for information leading to his

1 arrest, yet they have his sons and his brother in custody.

2 But somehow they still can't seem to develop the information

3 required to lead to his arrest. You figure it out.

4 Oh, and here's the best part. Mayo said to his son

5 Vicente, a cooperator in this case, said the DEA, according to

6 Mayo, the American DEA double-crossed him and arrested Vicente

7 instead.

8 They work together when it suits them, Mayo and the

9 United States Government. The Government witnesses will

10 testify they can make evidence appear and disappear. Criminal

11 files disappear. That's what the evidence will show. These

12 are the underlings that are testifying, not the boss. Imagine

13 what Mayo can do.

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15 (Continued on next page.)

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Opening Statement - Lichtman

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1 Opening Statement - Mr. Lichtman

2 MR. LICHTMAN: (Continuing) Mayo can get people
3 arrested. He can cause the Mexican Army to kill who he wants.
4 You figure it out.

5 And Chapo Guzmán, a nickname meaning Shorty, he does
6 have the stature of a sort, is on trial -- excuse me, is on
7 the run constantly since the Cardinal was killed, getting
8 arrested and breaking out of jail in 2001 on the run in the
9 mountains for over a decade before being arrested again in
10 2014, breaking out of jail again, because to sit in jail in
11 Mexico is to ensure your death if you are El Chapo Guzmán.
12 Inmates walk around with guns, grenades, phones, you name it.
13 People get killed all the time in jail there, including Mr.
14 Guzmán's brother, who was arrested just after meeting with the
15 American law enforcement agents in Mexico City and then was
16 killed in prison.

17 And who was responsible for Joaquín Guzmán escape
18 from prison in that laundry cart in 2001 that you heard about?
19 Who provided a helicopter who whisked him to safety? Who had
20 the most to gain from Mr. Guzmán escaping from that Mexican
21 Prison and being on the run for the next 13 years with a huge
22 target on his back, Mayo Zambada, that's who.

23 The bottom-line is that the world is focusing on
24 this mythical El Chapo figure. The world is not focusing on
25 Mayo Zambada to allow him to remain free and in business. It

1 makes sense and the evidence will support this.

2 Good morning. Good afternoon. Good night. We've
3 been here all day. I'm Jeffrey Lichtman, and along with
4 Eduardo Balarezo and Bill Purpura, we are here and have the
5 privilege to represent Joaquín Guzmán.

6 You will hear a lot of evidence over the next couple
7 of months, and all I could ask of you, or I will ask of you
8 are two things: The first is keep an open mind. Keep an open
9 mind. Do not prejudge this case just because the story that
10 unfolds here will shake everything you know about law
11 enforcement and about Government.

12 Second, and I ask you to treat Mr. Guzmán as you
13 would want yourself or a loved one treated if God forbid you
14 or they had the great misfortune to be sitting at that table
15 over there with the entire Government on your neck.

16 Keep an open mind and remember that the burden of
17 proof is entirely on them, not on us. I'm not required to
18 give an opening statement. The burden is on them. I'm not
19 required to even cross-examine any witnesses. The burden is
20 on them, but we will, and unlike the direct examinations which
21 are carefully scripted events, question, answer, question,
22 answer that they go over in proffers, and the
23 cross-examinations are evidence too. And unlike the direct
24 examinations, as I said, the cross-examinations are caldrons
25 of truth because at that point they are actually required to

1 let witnesses to think on their feet. They're not just going
2 off a script that they've prepared, that they've been over
3 dozen of times.

4 Now, the backdrop, if I can, to this trial is the
5 American war on drugs. Incredibly, for whatever reason,
6 Americans consume more illegal drugs than any country by far
7 on the planet. And cocaine and heroin came to America from
8 various South American countries and Mexico in the 70's and
9 '80s and demand in America exploded. And at that point a
10 large amount of drug trafficking organizations came from South
11 and Central America and Mexico and started shipping drugs to
12 America. We had that whole "Just Say No" era during the
13 Reagan years, which obviously accomplished nothing. There
14 were numerous drug trafficking organizations and numerous
15 leaders of them. As the Government's version goes, Joaquín
16 Guzmán somehow became the leader of all this. The most
17 significant drug dealer sending the most drugs to America.
18 But, again, keep in mind that he was either in prison or on
19 the run hiding out in the mountains of Culiacán in Mexico, in
20 the State of Sinaloa literally from 1993 until his extradition
21 to the United States in 2017. Mr. Guzmán was on the run from
22 either the Mexican, American authorities, or sitting in jail
23 during that entire period. The flow of drugs never slowed
24 down during all that period and yet he is blamed for being the
25 leader when the real leaders are living freely and openly in

1 Mexico. It is very convenient. The truth is he controlled
2 nothing. Mayo Zambada did.

3 And you will see again that while he has been here
4 in America, the flow of drugs hasn't stopped. Nothing has
5 changed, business as usual. Mayo Zambada is in charge and
6 doing all of that.

7 Judge, I'm going to ask if we can take a break here.
8 I will be going into a different section.

9 THE COURT: If you'd like.

10 We did promise you exit by 4:30, Ladies and
11 gentleman, so we're going to break for the day. We will have
12 Mr. Lichtman finish his opening statement tomorrow morning and
13 then we will proceed directly with the Government's case after
14 that.

15 So, please, I'm not going to repeat all the
16 admonitions that I gave you about staying away from the press
17 and social media and all of that because I just told them to
18 you an hour ago. But please keep those in mind and strictly
19 adhere to them. We will see you tomorrow morning at 9:30.
20 Thank you very much.

21 (Jury exits the courtroom.)

22 THE COURT: Everyone be seated, please.

23 We may have some things to talk about based on the
24 opening, but before we get to that, there were things that I
25 intended to go over this morning which I haven't had a chance

1 to go over. Let me go through those and then we will hear if
2 anybody else has anything they want to say.

3 First, I have the defendant's motion for disclosure
4 of the identity of trial witnesses last night. The
5 Government, of course, hasn't had a chance to respond, but it
6 seems like you need to do a little more identification in
7 advance.

8 MS. PARLOVECCHIO: Actually, Your Honor, we made a
9 disclosure last night so I believe that issue has been
10 resolved.

11 MR. BALAREZO: Your Honor, it has been resolved
12 insofar as they've given us names for maybe the next week and
13 a half. It's a start.

14 THE COURT: That's good. Let's try to maintain that
15 kind of timetable not everyday, but give them a week and a
16 half notice.

17 MS. PARLOVECCHIO: Yes, Your Honor.

18 THE COURT: Next, on the defendant's second motion
19 for a reconsideration, which is still open, the defense hasn't
20 filed a reply. The time has past. I don't know if you want
21 to file a reply.

22 You don't know which one I am talking about?

23 MR. LICHTMAN: Yes, there are so many.

24 THE COURT: It is Docket No. 420.

25 MR. LICHTMAN: Yes, I remember.

1 Judge, do you mind if we perhaps wait until tomorrow
2 morning? I had thought we actually had filed one, a reply.

3 THE COURT: Check. Let me know tomorrow morning.

4 MR. LICHTMAN: I will. Thank you.

5 THE COURT: Next, the Government has proposed
6 redactions to the voir dire transcripts, at least as of
7 yesterday. Not today obviously.

8 Any objections to those from the defense?

9 MR. BALAREZO: Your Honor, we didn't respond because
10 I think the Court's order required the Government to submit
11 it. We have no objection.

12 THE COURT: That's fine. Okay. Next, I need to
13 address the seating arrangements in the courtroom. Now,
14 putting aside press seating, which is one issue, in terms of
15 general admission, people are concerned that if they come
16 early enough to get a seat and then they leave to go to the
17 bathroom or they leave to go to lunch when they come back,
18 their seat is gone. If you signed in with the marshal when
19 you get here in the morning and you tell the marshal when you
20 leave the courtroom that you will or will not be back, then we
21 will do our best to hold the seat for you. If you tell the
22 marshal you will be back and then you are not back or you
23 don't tell the marshal anything at all, then you will not get
24 any reservation privileges even if you show up early the next
25 day. I hope that's clear enough.

1 That's all I intend to say about it.

2 All right. Anything that the parties have to tell
3 me besides what I have just gone through?

4 MS. PARLOVECCHIO: Just with regard to Mr.
5 Lichtman's opening, Your Honor. It really skated very close
6 to the line and arguably crossed the line on a few things,
7 Your Honor had precluded any arguments regarding selective
8 prosecution. I believe that Mr. Lichtman has come very close,
9 if not has violated that order. He also seems to have raised
10 a public authority defense in his opening. We all well know
11 that is a pretrial defense that has to be raised. That has
12 never been raised by the defense. The Government has received
13 no notice that that would be a defense.

14 And, finally, the Government objected to the
15 repeated references to inadmissible hearsay in Mr. Lichtman's
16 opening and we would request that Your Honor admonish him from
17 further doing that.

18 THE COURT: Those all seem right to me, Mr.
19 Lichtman. What do you have to say?

20 You have to say let me confer with Mr. Purpura.

21 MR. LICHTMAN: Exactly.

22 Judge, we don't believe there has been any issue
23 about the public authority or selective prosecution. We are
24 not suggesting that he is -- that he was permitted to deal
25 drugs. We are just saying that a different person was the

1 leader and he was framed for it. That's not --

2 THE COURT: All right. I am going to stop at that.
3 That's fine. I understand your position. The Government can
4 send me a letter telling me why it thinks your statement was
5 incorrect just now by quoting excerpts from your opening. I
6 think the Government will be able to establish that. That's
7 my take on it. But I will read it in writing first and I will
8 get a response from you and then I will decide. I will just
9 tell you don't promise the jury things you're going to get. I
10 mean, some of the things I heard, when Ms. Parlovecchio refers
11 to inadmissible evidence, if an agent says I believe this guy
12 or I don't believe that guy, that's not admissible evidence.

13 MR. LICHTMAN: Judge, we're not talking about an
14 agent.

15 THE COURT: It sounded to me like you were talking
16 about somebody who had an opinion of someone else's veracity.

17 MR. LICHTMAN: Judge, Government witnesses will
18 state they didn't trust other Government witnesses. Why can't
19 I ask a Government witness do you think that this other
20 Government witness is truthful?

21 THE COURT: Okay, I will take a brief from the
22 Government on that.

23 MS. PARLOVECCHIO: Yes, Your Honor.

24 THE COURT: I will take a response. But I'm telling
25 you I think you are incorrect, at least until I see a brief,

1 because his opinion is irrelevant. He is not there to
2 evaluate anyone's credibility. The jury is here to do that.

3 MR. LICHTMAN: If a witness can state that another
4 witness has a reputation for dishonesty, for lack of
5 truthfulness.

6 THE COURT: There's a limited area in which you can
7 make inquiry. That is right. But that's not how you phrased
8 it in your opening. You have a limited area. You do not get
9 statements from a 302 that say I don't think this guy is
10 credible when he tells me this story.

11 MR. LICHTMAN: The 302 would not be the evidence.
12 It would be the witness who stated that another witness is a
13 liar and can't be trusted.

14 THE COURT: You can get in certain limited
15 reputational evidence for veracity. Please stick closely to
16 the rules. I will take briefing on it and then I will decide.
17 I am not deciding now. Okay?

18 MS. PARLOVECCHIO: Your Honor, just a further point
19 on the selective prosecution issue, pervasive through Mr.
20 Lichtman's argument is the idea of outrageous Government
21 conduct which necessarily is encompassed in the selective
22 prosecution argument that was precluded by the Court. So I'd
23 just like to put that on the record, that that should be
24 something that should be precluded and should not be further
25 argued tomorrow morning.

1 THE COURT: It did sound to me like you were
2 arguing, Mr. Lichtman, well, they're going after the little
3 guy when really who they should have gone after was this guy.
4 If that's not a selective prosecution argument, I don't know
5 what is a selective prosecution.

6 MR. LICHTMAN: I will tell you why I disagree. I
7 never once said that Mr. Guzmán was continuing to deal drugs.
8 I simply said that he was scapegoated and that the real person
9 who was dealing the drugs, the leader, was Mayo Zambada. I
10 never once said that he was continuing to deal drugs during
11 all of this period.

12 MS. PARLOVECCHIO: Your Honor, I believe there was a
13 statement that the DEA allowed people to continue dealing
14 drugs in his opening statement.

15 MR. LICHTMAN: Not him. I'm talking about Mayo
16 Zambada.

17 THE COURT: Right. And it will be included in the
18 Government's letter as well. Hang on one second.

19 I have been advised that Juror No. 7's mother-in-law
20 passed away last night in the DR. He is going to find out
21 arrangements and he will let us know.

22 Anything else we need to cover tonight?

23 MS. PARLOVECCHIO: Not from the Government.

24 MR. BALAREZO: No, Your Honor.

25 THE COURT: Please, everybody, be on time for 9:30

1 tomorrow. I hope the marshals will be, with the jurors as
2 well. Have a good evening.

3 MS. PARLOVECCHIO: Thank you.

4 MR. BALAREZO: Thank you.

5 (Matter adjourned to November 14, 2018 at 9:30 a.m.)

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